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POLICY REVIEW

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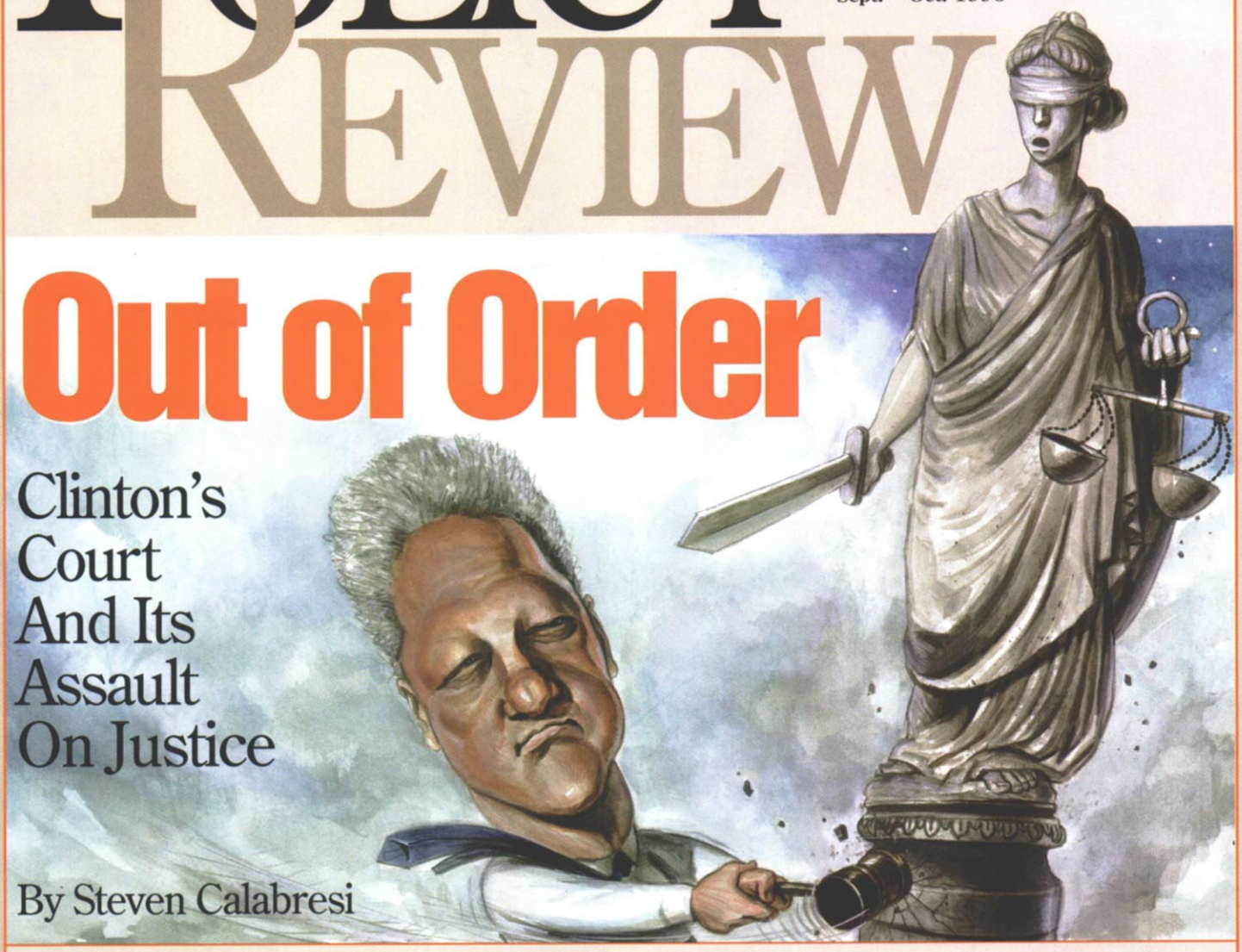

Out of Order

Clinton's Court And Its Assault On Justice

By Steven Calabresi

Ready for Round Two?
Tod Lindberg on the GOP Congress

The Lady in Red Tape
Regs That Strangle Women-Owned Businesses

AmeriCorps the Beautiful?
Harris Wofford vs. Doug Bandow

How Government Can Repair the Family
John Ashcroft, David Blankenhorn, James Dobson, John Engler, William Galston, Kay James, D. James Kennedy, Steve Largent, Dan Quayle, Paul Weyrich

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—Edmund Burke,
Reflections on the Revolution in France

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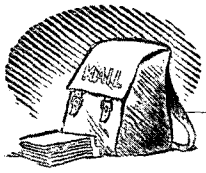

Correspondence

It's Not a Myth

To the Editor:

Boy, what a difference a year makes! Last February, *U.S. News & World Report* ran a cover story reporting that "an astonishing 38 percent of all kids now live without their biological fathers—up from just 17.5 percent in 1960." It said: "The absence of fathers is linked to most social nightmares—from boys with guns to girls with babies."

But a recent edition of the same magazine (July 1, 1996) carries a story entitled, "The Myth of AWOL Parents," which claims that parental absence isn't really a problem after all. In fact, it claims "there is no compelling evidence that kids today receive less attention from their parents than kids in 1965."

What happened? According to *U.S. News*, the "myth" of absent parents began with an article I wrote for *Policy Review* in the Winter 1991 issue. In that article ("The Parent Trap: So Many Bills, So Little Time"), I argued that "the biggest problem facing American children today is lack of time with and attention from their parents."

Among the research studies I offered as evidence were two published by sociologist John Robinson of the University of Maryland. The first one showed that the average parent in 1965 spent roughly 30 hours each week with his or her children. The second showed that the average parent tallied 17 hours of total time with his or her children in 1985. When they are read together, these published studies suggested that total parental time with children dropped 13 hours, or roughly 40 percent, between 1965 and 1985.

But Robinson recently told a *U.S. News* reporter that some of his 1985 numbers are erroneous. To make matters worse, he says he does not know and cannot figure out the actual 1985 figure for total parental time with children.

Robinson's error means the "40 percent decline" figure cited in my *Policy Review* article no longer can be used. But it does not mean there is no family time crunch.

Indeed, Victor Fuchs of Stanford University reports that the time parents have available to spend with children dropped 10 hours a week for whites and 12 hours a week for blacks between 1960 and 1986. Harvard University psychiatrist Armand Nicholi reports that U.S. parents today spend less time with their children than parents in any other country in the world except England.

Though some research shows that "primary" or "quality" time with children has remained fairly constant, or even risen slightly, since the mid-1960s, "quality" time is difficult to define and measure—and is often manipulated by researchers to prove a point. Indeed, author Deborah Fallows has observed that some researchers focus exclusively on "all-out, undisturbed, down-on-the-floor-with-the-blocks time" in order to minimize differences between different types of parents.

Nevertheless, time-crunch critics often dismiss research pointing to a decline in overall parental time with children, arguing that it is not necessary for parents to devote as much time to child-rearing as they once did since families today are smaller. But University of Maryland sociologist Harriet Presser reports that "not only are Americans having fewer children than ever before, they are spending less time with the children they have."

In addition, the amount of individual attention children receive from parents is not the only time factor influencing children's well-being. Research shows that the unsupervised "latchkey" child is at a significantly higher risk to smoke, drink alcohol, use drugs, commit crime, and engage in early sex.

Thus, time-crunch critics who tell parents that all's well on the home front so long as per-capita "quality time" meets 1960s standards are doing families a grave disservice. For if parents buy this nonsense, they may soon find that in addition to scheduling some "quality" time with their teens, they'll need to schedule some with their new grandkids as well.

William R. Mattox Jr.
Vice President for Policy
Family Research Council
Washington, D.C.

Letters to the Editor

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Immigration's Latest Chapter

To the Editor:

As head of a decade-long bipartisan effort by the National Association of Latino Elected and Appointed Officials (NALEO) to promote naturalization, I was quite surprised to read John Miller's characterization of my efforts in this area as a "political power grab" ("The Naturalizers," July-August 1996).

Specifically, our efforts included advocacy of a standardized exam for the naturalization test to eliminate arbitrary behavior on the part of a small number of INS bureaucrats. For example, even readers of this journal would be hard-pressed to answer such questions as "How many Pilgrims landed at Plymouth Rock?" or "What is Governor Cuomo's wife's name?" Yet questions like this were being asked as recently as the 1980s.

Miller identifies the promotion of naturalization through Hispanic community-education campaigns as being somehow corrupt, as if naturalization ever enjoyed a mythical past. In reifying this image of the pure Americanization process, Miller curiously ignores the fact that, by the late 19th and early 20th century, hundreds of thousands of European immigrants were naturalized by the East Coast city political machines.

If Miller had spent a portion of his research analyzing the commendable educational programs that independent Hispanic organizations such as NALEO have implemented in the Hispanic community, he would have realized that Hispanic efforts to become new Americans are but the latest example of the immigrant political incorporation that is strengthening this great nation of ours.

Harry Pachon
President, Tomás Rivera Center
Claremont, Calif.

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Trading Statistics

To the Editor:

In "Trade Secrets: Global Markets Spur Toledo's Turnaround" (May-June 1996), Christopher Garcia correctly observes that overall joblessness in Toledo has fallen significantly since the recession of the early 1980s. Yet Garcia claims that Toledo's manufacturing sector—source of the best-paying jobs on average—is "growing at 7 percent a year." This is completely false. The city's Job Services Bureau pegs the annual increase of manufacturing jobs for Toledo and its suburbs at 0.4 percent for 1992, 1.5 percent for 1993, 5.2 percent for 1994, and 2.1 percent for 1995. These modest increases still leave the area's manufacturing employment 2,100 below 1989 levels, and 18,400 below 1970 levels.

Garcia's anecdotes notwithstanding, the big areas of recent job growth in Toledo, as in the rest of the state and nation, have been in the service industries, most of which are not traded internationally. This is surely why real mean earnings in Lucas County (where Toledo is located) fell 11.4 percent from 1979 to 1989, and 5.1 percent between 1990 and 1994.

No reasonable person would place all the blame on the giveaway trade policies lauded by Garcia. But with foreign trade and investment growing faster than the rest of the economy, it is equally unreasonable to absolve them of guilt. Crediting these trade policies with sparking a living-standards boom reflects either ignorance or intellectual dishonesty.

Alan Tonelson
Research Fellow
U.S. Business and Industrial Council Educational Foundation
Washington, D.C.

Christopher Garcia responds:

Tonelson is correct that *overall* manufacturing employment is growing at a more modest pace in Toledo than my article indicates. But *blue-collar production* jobs are growing at approximately 7 percent a year in Toledo and bringing production employment to its highest level in 10 years. (Overall manufacturing employment numbers camouflage this growth because they include white-collar, middle-management positions.)

Tonelson's argument mistakenly assumes that service-sector growth in Toledo is not related to the manufacturing-sector growth I highlighted nor to international trade. Yet, Toledo is interesting partly because service jobs are growing along with manufacturing jobs and often there is a direct correlation. Many service companies, such as Burlington Air Express, moved to Toledo specifically to serve the city's exporting companies.

Contrary to Tonelson's claims, average real wages for production workers in the entire metropolitan Toledo area increased 5 percent from 1991 to 1995, to an average of $16.18—31 percent more than workers across the United States.

From 1993 to 1994 alone, exports in Toledo expanded 18 percent and, according to the U.S. Department of Commerce, jobs related to these exports are paying Toledoans wages 13 to 17 percent higher than nonexport-related jobs. Toledo's workers understand the importance of competing and succeeding globally and they are turning rust to riches through international trade.

Divorced Opinions

To the Editor:

The advocates of fault-based divorce catalogued by Elizabeth Schoenfeld in the article "Drumbeats for Divorce Reform" (May-June 1996) are misguided.

Fault-based divorce laws don't lengthen marriages, they lengthen divorces. No matter what the effect is on children or the spouses, the legislature in any given state does not have the moral right to enact laws that make it more difficult for a marriage to end.

One spouse can hold the other spouse "hostage" if he or she doesn't want the divorce. It is very hard to prove fault, such as cruel and inhumane treatment. Would anyone really want children to grow up in a household where their parents are forced to live with one another, because the divorce laws are archaic? No-fault divorce does not have to mean devastation for children. Fault-based divorce laws only benefit attorneys, not children.

Chris Mancinelli
Albany, N.Y.

To the Editor:

Twenty-five years as a divorce attorney only confirms Elizabeth Schoenfeld's conclusions about the developments over the years, and the effect that the liberalization of divorce statutes has had on family and children.

I, too, have mused about conservatives failing to ever mention the effect of no-fault divorce on the family.

I occasionally have engaged in the foolish and futile practice of questioning grounds in divorce cases. Such an attorney is generally thought *of* as in need of mental treatment. *It is,* however, my view that if jury trial were available in divorces, the public view of divorce grounds, expressed by juries, would be substantially more conservative than the current state of law.

Stanley L. Tucker
via e-mail

Concealed Triumph

To the Editor:

David Kopel writes about "The Untold Triumph of Concealed-Carry Permits" (July-August 1996). And behind the untold statistics are untold stories of real people and real lives.

Virginia's Dorothy Newton and her niece, Doris Matthews, were held at gunpoint by four young men. They demanded her pocketbook, took her jewelry, and, after being handed only $20, demanded still more.

It was not Newton's first experience with crime. She had been robbed and shot in 1994; a separate robbery left her grandson paralyzed from a gunshot wound. Seeing none of Bill Clinton's 100,000 new cops in the vicinity, and sensing that challenging her assailants to a game of midnight basketball would be futile, she pretended to search her purse for more money, and pulled out a gun.

Unloading five rounds, she sent two attackers to the hospital and two fleeing for their lives. This incident could not be dismissed as racially-motivated vigilantism. The assailants and victims were all black.

Daniel John Sobieski
Chicago, Ill.

Corrections: Alco Standard, a firm mentioned in Adam Meyerson's "Corporate Upsizers" (July-August 1996), is in Valley Forge, Pennsylvania, not in Harrisburg.

In "What's New at Heritage" in the same issue, the number for ordering *Issues '96* was incorrect. The actual number is 1-800-544-4843.

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A Morningstar for Human Services

Every now and then an idea comes along that is so breathtakingly sensible, one wonders why no one ever thought of it before.

The National Results Council, a new nonprofit organization based in St. Paul, Minnesota, plans to give users of human services the same kind of comparative performance measures available to buyers of cars and CD players.

It will begin by measuring the effectiveness of vocational rehabilitation programs that try to find jobs for people with disabilities. With some 15,000 programs nationwide serving 500,000 people, this is a $3-4 billion industry, funded mostly by federal and state taxpayers. Despite all this money, roughly two-thirds of people with disabilities remain unemployed. Yet, astonishingly, there are no industry-wide measures for judging how well individual programs are doing.

"When you're choosing between different mutual funds, you can compare their performance in Morningstar," says Terry Etling, the CEO of the National Results Council (NRC). "But if you have a disability and want a job, you don't know which rehab programs have the best track record. And if you're a legislator trying to get the most bang from the taxpayers' buck, you don't know which programs to expand or scale down." Etling ought to know. As a former top official at the Ohio Rehabilitation Services Commission, he used to hand out money to service providers.

To fill this void, the NRC will compare every vocational rehabilitation program in the country according to two measures of performance:

- Four months after graduation, what percentage of participants have been employed for at least 30 days earning at least $180 per week? (For some kinds of programs, the earnings threshold will be lower.)
- How much does the program cost per beneficiary?

The NRC will then rank the programs according to the benefits delivered and the cost per beneficiary. Rank order will be adjusted according to labor market conditions and barriers to employment, so that programs are rewarded for serving consumers with the greatest difficulty finding jobs.

The NRC will test its methodology in a pilot study of 90 rehab programs at Goodwill Industries International. Kenneth Shaw, Goodwill's research director, says his organization has conducted internal studies of its programs, "but we think an independent third-party evaluation will have more credibility."

"For the same amount of money, we could help 25 percent more people get jobs."

Shaw thinks the NRC study will help Goodwill do its job better. "We want to know if some of our programs aren't achieving industry standards, and then figure out why," he says. "We also want to identify which of our programs work best, so that we can learn from our own success, and transfer those lessons to our other operations."

That's exactly what the NRC hopes will happen throughout the rehab industry. Robert Walker, the organization's president, is a program-evaluation specialist who used to run a Minneapolis rehab center. He estimates that the industry could improve its cost-effectiveness by 20 to 25 percent, simply by bringing low performers up to the standards of the best in the business. "For the same amount of money, we could help 25 percent more people get jobs."

The big question is how consumer information will transform the industry. "Simply pointing to models of excellence isn't enough," says Chris Olander, an NRC board member. "We have to change incentives." Olander is the executive director of New York City's JM Foundation, which conducted a seven-year search in the 1980s to identify the nation's most effective vocational rehab programs. "Guess what? The winners were exemplary but nobody cared. Government and private funders didn't reward the best performers, or punish the worst ones. That's because we don't pay for outcomes in this industry, we pay for quantity of services. We have to start paying for results."

After vocational rehab, the NRC's next target for evaluation will be the larger world of employment and training—a $20 billion industry. It is also considering programs for alcohol and drug treatment, mental health, and teen-pregnancy prevention. One issue the NRC may be able to resolve is whether faith-based alcohol and drug addiction programs have much higher success rates than medical therapies or secular counseling programs.

The NRC hopes it can reach five audiences with its information: consumers who can make more informed decisions; service providers who can compare their results with similar programs; government officials who can better direct tax dollars for maximum benefit; researchers and trainers who can help improve programs; and private funders who can invest their charitable contributions for greater impact.

"Our mission," says president Robert Walker, "is to help human services achieve higher success rates while reducing costs and serving more people."

National Results Council, 2677 North Innsbruck Dr., Suite E, St. Paul, Minn. 55112. Tel.: 612-604-0366, fax: 612-604-0367.

by Adam Meyerson

Adam Meyerson is a vice president of The Heritage Foundation and the editor of Policy Review: The Journal of American Citizenship.

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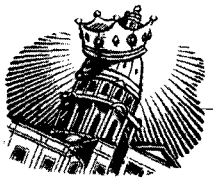

The Prisoners' Accomplice

by Jessica Gavora

Jessica Gavora is the director of programs at the New Citizenship Project, based in Washington, D.C.

The 288 most dangerous convicts in Maryland are incarcerated in "Supermax," the Maryland Correctional Adjustment Center.

Supermax is a prisoners' prison, one in a growing class of "supermaximum security" facilities that take the worst of the worst—murderers and rapists who have continued their violent behavior while on the inside—and lock them away in a redoubt of fortified walls and high-technology surveillance equipment. Supermaxes exist to isolate "bad" prisoners from the general population, and in turn, these incorrigibles from each other.

While some see supermaxes as civilized society's last line of defense against its most violent predators, others see them as cruel and unusual punishment. This latter group includes the ACLU's National Prison Project, the National Campaign to Stop Control Unit Prisons, and, most recently, the Clinton Justice Department.

Deval Patrick, the assistant attorney general for civil rights, has threatened to sue Maryland for alleged violations of prisoners' civil rights at Supermax. Maryland officials vehemently deny the charges. The Clinton administration, they claim, is conducting a quiet campaign on behalf of prisoners that belies its tough-on-crime rhetoric.

Even as President Clinton proposes a constitutional amendment to protect the rights of crime victims, these officials charge, his Justice Department is trying to expand the rights of prisoners by singling out Supermax. And although the president has signed legislation to liberate state prisons from activist federal judges and groundless prisoner lawsuits, his political appointees are attempting to micromanage the incarceration of the states' most dangerous convicts.

Rico Marzano is one such convict. In a 1987 drug deal that went bad, Marzano shot and killed four people, including two pregnant women. He was convicted of first-degree murder and placed in a maximum security facility. After his second escape attempt, he was sent to Supermax.

Maryland's highest security prison houses three kinds of inmates: "serious institutional rule violators" (typically inmates who have assaulted or killed guards or other inmates); serious escape risks, like Marzano; and prisoners awaiting death sentences, like Anthony Brandison, who paid a man $9,000 to kill two witnesses scheduled to testify against him in a 1983 federal drug case. In all, 105 murderers and 19 rapists spend their days in Supermax in what the corrections system calls "restricted confinement."

Inmates remain alone 23 hours a day in their 65-square-foot concrete cells. They are allowed no physical contact with other prisoners or guards; meals are passed through a narrow slit—a "beanhole"—in solid metal cell doors. Out-of-cell time is spent alone, in a windowless prison dayroom. "When we were letting them rec [recreate] together they were killing each other, so we had to stop," said William Sondervan, Maryland's assistant commissioner for security operations.

Despite such concern for the safety of inmates—not to mention the prison staff—the Clinton Justice Department insists that the isolation of inmates at Supermax is "the mental equivalent of putting an asthmatic in a place with little air to breathe." But the staff must maintain order among prisoners who regularly hurl "correctional cocktails" of feces, urine, and other bodily fluids and often have to be forcibly removed from their cells. It is obviously frustrating, then, that prison officials must also fight a legal battle to protect what they see as a valuable—and legal—correctional tool.

Each year, the 50 states spend $81 million defending themselves against prisoner lawsuits seeking redress for civil rights "violations" ranging from insufficiently stylish footwear to faulty television reception. This epidemic of prisoner litigation—one-fourth of the civil cases filed in federal trial courts last year were initiated by prisoners—is complemented by federal judges who impose "voluntary" consent decrees on states. In 1990, more than 1,200 state prisons were operating under judicial edicts covering everything from inmate population caps to how many electrical outlets each cell must have.

This litigation explosion has greatly circumscribed the control of states over their own prison systems. Some states have passed legislation curbing prisoner lawsuits, but attorneys general from Tallahassee to Phoenix have looked to Congress for federal relief. Congress responded earlier this year by passing the Prison Litigation Reform Act. The legislation, which forces prisoners to pick up the tab for lawsuits and limits the ability of judges to impose consent decrees, was signed by Clinton as part of a larger spending bill last April. But the ink had barely dried on Clinton's signature before his Justice Department stepped in to substitute for the liberal federal judges whose meddling in state prison systems had been curtailed by the legislation.

The Clinton Justice Department undermines local efforts to seize control of prisons from litigious prisoners and autocratic judges.

In a 13-page letter to Maryland gov-

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ernor Parris Glendening, Deval Patrick charged that Supermax was violating inmates' constitutional rights through a range of offenses from inadequate exercise equipment to lukewarm meals. He gave the state 49 days to comply with a three-page list of "necessary remedial measures," or else face a federal lawsuit.

Thirty states, the federal government, and Canada all have supermaxes—one-third of which have been created since 1991. These facilities have already established a track record of success as pressure-release valves for overburdened state prison systems. In the 1970s, before California built its supermax, one out of every 1,200 prisoners was murdered by a fellow inmate. Today, that rate has shrunk by tenfold, to one in 12,000.

Tom Coughlin, a former New York State Corrections Commissioner, says he saw a "dramatic reduction" in violence in his prisons following the construction of the New York supermax a decade ago. Despite their success—or perhaps because of it—supermaxes have become the target, many corrections officials believe, of a systematic bias within the Department of Justice.

Maryland prison commissioner Sondervan says he is "shocked" and "insulted" by the charges leveled against Supermax by Patrick. Department of Justice investigators, he believes, came into the facility with their minds already made up. "They came in with a political agenda," Sondervan says. "Their charges don't reflect the truth" about conditions at the prison.

Prisoner litigation typically germinates in the expansive environs of the Eighth Amendment, which prohibits "cruel and unusual punishment." Federal civil rights investigators, Maryland officials charge, seem to believe that supermaximum facilities by their very existence are cruel and unusual. In his letter to Glendening, Patrick admitted he was "unable to find evidence of a pattern of physical abuse by Supermax staff against inmates."

What he did find, however, was a host of violations of prisoners' "rights." Among them were the "rights" to outdoor exercise, piping hot meals, and daily visits by medical personnel. In a sharply worded rejoinder, the Maryland attorney general's office told Patrick that his charges reflect his civil rights division's "philosophical opposition to 'super maximum' facilities without regard to constitutional criteria." They noted that the law allows the Department of Justice to redress only "egregious" constitutional violations, a standard, they argued, that was not met by the charges leveled by Patrick. Former New York prisons commissioner Coughlin agrees that the Justice Department too often acts without legal cause. "Look up the word 'egregious' and the meaning is not lukewarm food," says Coughlin. "There is no constitutional right to rehabilitation. You have to protect people from harm—that's the constitutional right. The Department of Justice says isolating prisoners is causing harm. But as far as I'm concerned, if officers are not hitting individuals with sticks, there is no constitutional harm being done."

Maryland officials suspected Department of Justice investigators of a broader political agenda because Patrick's letter referred to Pelican Bay prison, a notorious facility in California that has been referred to as a "neo-Orwellian hell." Conditions at Supermax, Patrick wrote, were "similar" to those found at Pelican Bay, a supermax that had been the object of a huge 1991 class-action suit alleging physical and mental abuse of prisoners.

Maryland officials believe that the Department of Justice has set out to expand prisoners' rights by building on the case law established by Pelican Bay litigation. A federal judge found extensive abuses at that prison and ruled that the severe isolation of inmates there could exacerbate and even cause psychosis and other mental problems. Maryland officials strenuously object to the comparison. Kathleen Kennedy Townsend, the state's Democratic lieutenant governor, told the *Baltimore Sun* that it was "outrageous" and "inflammatory" to compare Supermax with Pelican Bay. "The fact that they have to reach so far to make the comparison makes you suspicious of the people who wrote this," she said of the Justice Department report.

Such an agenda, officials admit, is perplexing given the anticrime sentiment prevalent this election year. And the timing of the investigation of Supermax—coincident with the president's approval of the Prison Litigation Reform Act—only muddies the Clinton administration's message on criminal-justice issues. "Deval Patrick has painted himself into a box on this one," a Maryland prison official says. "The Prison Litigation Reform Act really captures the national view of how people feel about prisons."

Meanwhile, Maryland corrections officials remain in a tense standoff with federal officials over the future of Supermax. Unfortunately, they can't look to the Prison Litigation Reform Act for relief; it spares states the tyranny of liberal federal judges and litigious inmates, but not federal regulators.

Senator Orrin Hatch, one of the authors of the Act, recently decided to try the direct approach: He appealed to the Clinton administration to drop its insistence that inmates at Supermax have a constitutional right to fresh air. "Many, if not all, of the murderers in this group are lucky to be breathing indoor air at all," the senator says, "which is more than their victims are doing right now."

Illustration by David Clark

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by Charmaine Crouse Yoest

Charmaine Crouse Yoest is a contributing editor of Policy Review: The Journal of American Citizenship *and the co-author of* Mother in the Middle: Searching for Peace in the Mommy Wars *(HarperCollins/Zondervan).*

A Solution Waiting to be Adopted

When 48-year-old Hillary Rodham Clinton confessed to *Time* magazine recently that she wanted to adopt a child, it set off a small tempest of controversy. Her comment was hailed by supporters as evidence of her bona fides as a child advocate and decried by detractors as yet another reincarnation of the First Lady as First Mother. Some dismissed the remark as an effort to minimize the fallout from her husband's veto of the bill to ban partial-birth abortions.

Interpretations aside, the incident highlights the unique position adoption occupies in our political firmament. Although many in the adoption community wish it were otherwise, adoption is closely tied to the abortion question. And as abortion politics grow more heated, adoption demands attention as the nearest thing to middle ground in a polarizing issue.

But adoption is enmeshed in politics of its own. It continues to suffer from the controversy over transracial placements and from the bureaucratic delays of the foster-care system. President Clinton, for example, says he will support a House bill that would prohibit states from denying adoptions based on race, but the proposal faces intense opposition from special interest groups attached to the Democratic Party.

This complex issue has two sides: infant adoption and adoption out of foster care. For many years now, only 1 to 2 percent of women faced with unwanted pregnancies have made adoption plans. At the same time, the number of couples waiting to adopt is usually estimated at around 2 million. The tragic paradox is that while many families desperately wait for children, many children wait for families. According to the Institute for Children, state welfare agencies have adoption plans for 100,000 foster-care children nationwide, and 50,000 are legally free to be adopted but are languishing in foster care.

The National Association of Black Social Workers has for years decried adoption of black infants by white families as "racial genocide." Accepted social-work practice holds that a child be held in foster care until an "appropriate"—read "racially correct"—family is found. This sometimes occurs even when a white family is waiting to adopt a particular minority child. In theory, race-matching of infants and adoptive parents makes sense; in practice, it means that minority children in some states typically wait two to three years longer for new homes than white children.

Meanwhile, children are often trapped in foster care by the false hopes of the "family preservation" philosophy. With misguided compassion, social workers and judges work to preserve families broken apart by drug addiction and physical abuse, when the children need loving, stable homes. Moreover, the foster-care system is sustained by monetary incentives to keep children in care: Federal money comes into the system based on each day a child stays in foster care. The hurdles to get a child into a permanent adoptive home are high, while the incentives are low. As a result, children can drift in the system for years, waiting for the elusive "family reunification."

Illustration by Anatol Woolf

Eva is one of those children. She last saw her biological mother 10 years ago, when she was eight. Her biological father is not involved in her life in any way. But 1996 was a year of exciting milestones for Eva. She graduated from high school, and a court finally approved her adoption by her long-term foster parents. It took the law a long time to sanction the family they'd already formed—eight and a half years ago.

Why the delay? Eva's biological father refused to consent to the adoption. Eva wants her story told because it isn't over. Her two younger brothers have been living in a residential placement center for nearly nine years, even though her new family would like to adopt them as well. Compassion and common sense say yes; red tape says no. Eva's story is much too common. The time that children spend in foster care before their situations are resolved can be excruciatingly long. Ten percent of children in foster care stay more than 7.4 years. And the number of children in state care keeps increasing. Between 1982 and 1992, the number rose 69 percent, from 262,000 children to 442,000.

Behind the statistics are thousands of Evas yearning for homes. Fortunately, reform is in the air. Frustration with lengthy stays in foster care, rising incidents of child abuse, and concern over persistently high abortion rates are helping to focus renewed attention

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on adoption.

Various efforts—by private groups, state governments, and Congress—aim to reform the system to let needy children connect with a loving family. The following are some recent initiatives:

The Texas Model

Texas governor George W. Bush presides over one of 10 states in which 75 percent of the nation's foster-care population resides. Texas currently has 12,000 children in foster care, of whom 1,400 are available for adoption. But even the children ready for permanent homes may face a long journey: It usually takes the state two years after termination of parental rights to place these children in permanent adoptive homes. Most important from a child's view, foster care itself is a pretty bumpy ride: children average four different placements before they get a permanent adoption.

The 1996 annual report of the Texas Department of Protective and Regulatory Services found that, since 1991, the average length of stay for children who were ultimately adopted was 40.8 months. It took 15 months to terminate parental rights after entering foster care, another 18 months to be placed for adoption, and another seven months to finalize the adoption.

Bush wants to cut the time kids spend in foster care in half, and has established the Governor's Committee to Promote Adoption to help make Texas a model of adoption reform. The 13-person committee includes several adoptive parents, pastors, and representatives of private adoption efforts such as One Church and One Child. It is due to hand the governor a report in September identifying state policies that hinder adoption. State adoptions, for example, are subject to challenge up to two years after the finalization of the adoption decree—leaving families and children in a legal limbo.

So far the committee has targeted two areas for reform: judicial and administrative. Beverly Jimmerson, Policy Advisor to the governor, notes that courts waste a lot of time when they fail to schedule prompt hearings concerning a child's adoption status. In addition, the committee has discovered that state agencies providing social services to adults fail to prioritize parents who need mental services or addiction treatment. Parents may wait months, or even years, for treatment while their children languish in foster care. The committee's goal is to propose a legislative reform agenda for the 1997 legislative session.

A Memo for Reform

In 1993, the Cambridge-based Institute for Children began Assignment Adoption to change foster-care and adoption practices in all 50 states. In the first 12 months after Massachusetts governor William Weld signed on to the initiative, adoptions from foster care increased by about 47 percent. The Institute is now working with Texas governor George Bush and recommended to his Adoption Committee the following plan for reform:

1. Make foster care a truly temporary form of caring for vulnerable children; enact policies and practices that have as their goal a 12-month maximum stay for children in substitute care.
2. Grant biological parents no more than 12 months to prove their fitness to resume custody of their children.
3. Give biological fathers 30 days from the birth of the child to formalize paternity, or forfeit the right to contest adoption.
4. Prohibit any race-based delays in adoption.
5. Terminate parental rights for abandoned children after 30 days, and allow them to be adopted through a private agency—without placement in long-term foster care.
6. Find adoptive homes for children within 30 days after the termination of parental rights or contract the process out to a private agency.
7. Make entrance requirements for foster families as stringent as those for adoptive families.
8. Hold the state Department of Human Services accountable for reporting its progress in finding homes for children in foster care.
9. Encourage private-sector involvement in improving components of the substitute-care system.

Kids and the Race Card

A significant reason for adoption delays in Texas and other states is the ongoing debate over leaving minority children in foster care until suitable minority parents can adopt them—even though white families are willing and able to take the children in. That battle is now being waged in Washington in the form of the Adoption Promotion and Stability Act. The bill, which passed the House and remains in Senate committee, proposes three significant policy changes:

- **Give a $5,000 tax credit to middle-class families that adopt children.** The bill provides a tax credit for families with income under $75,000 to offset their expenses in adoption. Agency fees, court costs, and attorney fees can create an insurmountable hurdle for many families that might otherwise be able to adopt.
- **Prohibit the practice of denying adoptions based on race.** The goal is to stop state agencies from using racial considerations to delay or prevent adoption of children under their care. In 1994, former senator Howard Metzenbaum shepherded to passage the Multi-Ethnic Placement Act to eliminate racial barriers to adoption. In designing regulations to implement the bill, the Department of Health and Human Services under Secretary Donna Shalala essentially nullified its race-neutral intent.
- **Amend the Indian Child Welfare Act to prevent tribes from nullifying adoptions.** The Indian Child Welfare Act (ICWA), a federal law passed in 1978, grants Indian tribes the legal standing to contest the adoption of any baby with any Indian ancestry. At the time, the law was necessary to halt unethical adoption practices that preyed on Indian babies. But the act, which assigned the tribe a legal interest in the child "on a parity with the interest of the parents," has strayed into reverse racism.

A current Ohio adoption case illustrates how convoluted and damaging this mindset can be. The Rost family

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adopted two twin girls. Subsequently, the birth-grandmother decided she wanted the babies. Grandparents do not have standing to contest an adoption; under the ICWA, Indian tribes do. The grandmother then retroactively enrolled herself, her son, and the twins in the Pomo Tribe of California. The tribe is now contesting the adoption on the grounds that three of the twins' 32 great-great-great-grandparents were Pomo Indian. Courts have previously decided that as little as one-256th of Indian blood (that's one great-great-great-great-great-great-great-grandparent) qualifies a case for consideration under the ICWA.

The ramifications for adoption could be enormous. Senator Ben Nighthorse Campbell of Colorado informed the Senate Indian Affairs Committee that, although there are just over a million people officially enrolled in tribes, at least 15 million Americans can claim Indian ancestry. Echoing the National Association of Black Social Workers, Congressman Don Young of Arkansas told the committee that adoption of Indian children outside the tribe amounted to "a form of brain drain and genocide." While adults argue over rights and racism, children are the ones who wait and suffer.

Casey Goes to Bat for Kids

A new private project to promote both infant adoption and adoption out of foster care is the Fund for the American Family, founded last summer by former Pennsylvania governor Robert Casey. A prominent pro-life Democrat, Casey is marshaling his political clout to raise the profile of adoption, which he believes is a cornerstone in rebuilding the American family. He is lobbying heavily on adoption reform and recently testified before Congress in support of the adoption tax credit.

Making adoption a national priority is one of the group's top four projects. It has already sponsored two adoption summits, bringing together leading experts to discuss ways of breaking down the barriers to adoption. Casey expects to publish a set of reform proposals this fall to spur state and federal officials to reform the system.

"Our goal is to see 100,000 adoptions each year for the next five years," up from 50,000, says Chris Casey, the executive director of the fund. To realize this goal, Casey is trying to bring together all 50 governors for a summit similar to the 1989 governor's conference on education. Contact Chris Casey, 1555 Wilson Blvd., Suite 300, Arlington, Va. 22209-2405. Tel.: 1-800-420-8733, fax: 703-522-4969.

Resources

Institute for Children. A private, nonprofit group that works to reform the foster-care system and adoption policies at the federal and state levels. Contact Conna Craig, president, 18 Brattle St., Suite 211, Cambridge, Mass. 02138. Tel.: 617-491-4614, fax: 617-491-4673.

National Council for Adoption. A membership organization of 130 private, nonprofit, nonsectarian adoption agencies. Advocates for these agencies, as well as for adoptees, birthparents, adoptive parents, and adoption professionals. Publishes the *Adoption Factbook*, a 300-page guide to adoption issues. Contact Patrick Purtill, director of government relations, 1930 17th St. N.W., Washington, D.C. 20009-6207. Tel.: 202-328-1200, fax: 202-332-0935.

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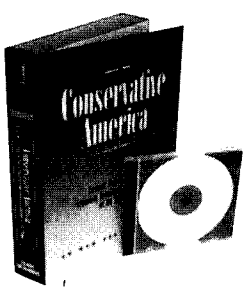

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Laboratories of Democracy

Don't Brake for Big Government

Congress has finally repealed a law that defied popular will and common sense—the federal speed limit.

In 1974, in the wake of the OPEC oil embargo, the federal government imposed the 55 mile-per-hour "National Maximum Speed Limit" (NMSL) on American motorists to conserve gas. But long after the fuel crisis had abated, the federal speed limit remained, backed by advocates who touted its supposed safety benefits. Even as these benefits were soon cast into doubt and drivers' compliance with the law began to erode, its supporters continued to lobby for the federal maximum. And for more than 20 years, Congress followed their lead. The Democratic leadership of the Congress blocked all efforts to overturn the national speed limit.

Then last year, with their robust commitment to limiting government, the newly elected House and Senate freshmen pushed for a repeal of the federal speed limit. In the fall of 1995, despite the resistance of old-guard Republicans Bud Shuster and John Chafee, chairmen of the key committees in the House and Senate, legislation repealing the national speed limit passed both chambers by chasmic margins—419-7 in the House, by voice vote in the Senate. On November 28, 1995, President Clinton reluctantly signed the legislation. The endurance of this anachronism is but one sign of Washington's bureaucratic paternalism; its demise, however, may augur a new era of limits on federal authority.

The federal maximum was not, technically, mandatory. It was enforced through the power of the purse—federal highway funds were withheld from states refusing to post the new limit. Naturally, every state capitulated. Building on legislation in 1987 and 1991 that allowed states to raise the limit to 65 m.p.h. on rural interstates and freeways designed for high speeds, the repeal removes the threat of reduced funding, freeing all states to set their own speed limits.

Since the repeal, more than 20 states have raised their limits, including seven within a week of the effective date of the repeal. Four of those states—Oklahoma, Wyoming, Nevada, and Arizona—posted a top speed of 75 m.p.h., while Montana eliminated its daytime speed limit for passenger vehicles, reverting to its pre-1974 law requiring drivers to maintain a "reasonable and prudent speed."

Once liberated, state legislatures ushered in these increases by lopsided margins. Missouri's House and Senate, for example, voted by 122-34 and 28-2, respectively, to raise the maximum limit to 70 m.p.h. Idaho's lower and upper chambers voted to increase limits by 56-12 and 28-7, respectively. Higher speed limits were voted down in Ohio, Connecticut, Kentucky, Virginia, and Louisiana. That's the beauty of a federal system. States can now set their own speed limits after assessing local conditions; some will increase their limits and some will not.

The swift actions of these legislators were bolstered by the support of motorist advocates. "We believe that the states will do as good a job, or even a better job, at setting and enforcing the limits," says Bill Jackman, a spokesman for the American Automobile Association. "In many states the federal limits were really disdained. . . . All of the state departments of transportation are responsible institutions with respectable people working in them. We trust them to do their jobs well." With 39 million members nationwide, AAA represents the interests of almost a quarter of all licensed drivers.

State traffic engineers and highway patrolmen, whose reputations depend on drivers' safety, added their applause. "Putting the decision up to the individual states was a good idea," says Ken Howes of the Florida Highway Patrol. "Our Florida Department of Transportation has done excellent research on what speeds are appropriate. We are very comfortable in Florida if a speed is raised, because we know it is not done haphazardly." Adds P.D. Kiser, the chief traffic engineer at the Nevada Department of Transportation: "The repeal was way overdue; the 55 m.p.h. speed limit was an experiment that failed miserably."

Easy Riding

Patrolmen and engineers supported the repeal because it permits states to set more reasonable and safe speed limits. According to traffic engineers, the proper method of determining speed limits is to measure the speed of traffic under ideal conditions. The limit should be posted at the speed at or below which 85 percent of traffic is traveling. In effect, *drivers* set the speed limit. What engineers call "the 85th percentile speed"—the proper speed limit—is the safest speed to travel. "People who drive at the 85th percentile speed are least likely to be in motor vehicle crashes," explains engineer Tom Hicks, of the Maryland State Highway Administration. "It's the people who drive much slower or faster who are most at risk."

Unreasonably low speed limits exacerbate the risk posed by these slower and faster drivers. Says Alan Soltani, the chief traffic engineer at the Oklahoma DOT, "When the 85th percentile speed was at 75 and the speed limit was set at 55, drivers weren't comfortable—some drove at 55, some at 65,

by Tyce Palmaffy

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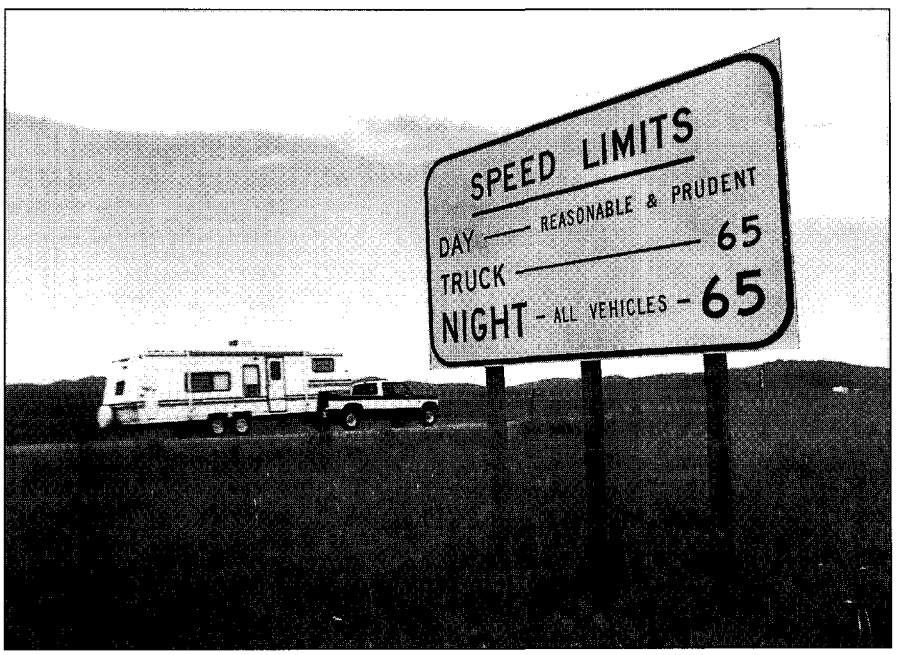
some at 75. There was so much variance that accidents increased." When the limit is raised to its proper level, the evidence shows, these dangerous variances in speed start to disappear. Hicks reports that ever since Maryland increased the limit on some roads to 65 m.p.h., "We're seeing more tightening of speeds; the slower drivers are catching up while the faster drivers are slowing down."

On many highways, the federally mandated 55 and 65 m.p.h. speed limits were unreasonably low—often 5 or 10, and sometimes 15 m.p.h. below the 85th percentile speed. In Minnesota, engineers report, the 85th percentile speeds were 73 m.p.h. on rural interstates and 69 m.p.h. on urban interstates. In Montana, the 85th percentile speed was 72 m.p.h. In Oklahoma, it was 75. Drivers in essence voted for repeal with their feet—by pressing down on the accelerator.



Montana state troopers say that accidents haven't risen since the state abolished its daytime speed limit on interstates and highways.

Photo by David Grubbs

Such rampant disregard for the law made the situation even *more* dangerous. Says Maryland's Hicks, "There are many traffic engineers, myself included, who think that the 55 m.p.h. speed limit caused a degradation of respect for traffic laws and contributed to what we call aggressive driving. For the last five years, everybody has been going 15 to 20 m.p.h. over the speed limit, including the police. It's terribly harmful to have a law and not enforce it."

Efforts to enforce unreasonably low speed limits also unduly influence the effectiveness of police. In 1978, Congress started requiring the states to certify drivers' compliance with the 55 m.p.h. limit or face cuts in their federal highway funds. So highway patrolmen were told to enforce a law that the majority of motorists were breaking and that threatened rather than improved safety.

Indeed, in a 1984 study of the effects of the 55 m.p.h. speed limit, the National Research Council found that 29 percent of highway patrol hours were devoted to rural interstates, where only 9 percent of traffic fatalities occurred. This means more dangerous roads—undivided country highways, high-speed two-lane roads, and highways running through congested commercial areas—received less attention.

Charles Lave, an economist at the University of California at Irvine specializing in traffic issues, says that researchers must take into account these changes in police and driver behavior by studying overall fatality rates instead of just rates on the interstates. In his 1992 study, "Did the 65 m.p.h. Speed Limit Save Lives?" he found that the stepped-up enforcement of the 55 m.p.h. speed limit did reduce fatalities on interstates after the national limit was enacted. But, he says, the reduction was illusory. To avoid the extra policing of the interstates, drivers switched to the scenic but more dangerous country roads, thus decreasing both traffic and fatalities on interstates.

So by requiring states to prove they were enforcing the 55 m.p.h. speed limit, the federal legislation effectively reduced patrol presence on non-interstates while increasing the traffic on these roadways. This substantially endangered safety. Says Jackman of AAA, "People move off and onto interstates depending on the speed; if the speed limit is only 55 or 65, they will move onto a country road that will get them there just as fast. The problem there is that the fatality rate is three times higher when you get off the interstates. Interstates are the safest highways we have." Now that the federal limit has been repealed, states can post more realistic limits that will attract drivers to the safer interstates.

Straw Men

The repeal of the federal mandate encourages better use of police resources, greater respect for the law, and safer roads. If one adds overwhelming support from motorists, the state legislatures, the highway patrol, and state departments of transportation, the case for repeal seems airtight. So why the opposition?

"Well, they're wrong," scoffs Judie Stone, the president of Advocates for Highway and Auto Safety, an organization funded by insurance companies. "I am not an engineer, but it is just common sense. . . . It doesn't take a rocket scientist to see that if you raise speed limits, speeds go up." Higher speeds, Stone contends, mean greater chances of crashing.

"Changes like these that increase the severity of injuries mean higher health-care costs, more expensive insurance claims, and higher premiums for everyone," adds Richard Retting, the senior transportation engineer at the Insurance Institute for Highway Safety.

These arguments held sway in Congress for 20 years. Safety advocates also often point to statistics that indicate fatalities rose 30 percent in 1987 on roads where the speed limit was increased to 65 m.p.h. This proves, they say, that raising the speed limit costs lives. But Lave's study concluded otherwise.

By concentrating solely on the number of interstate fatalities, Lave

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says, opponents of repeal fail to account for the safety benefits of setting more reasonable speed limits: police allocate their resources more efficiently and drivers switch to the less dangerous interstates. These benefits can only be accounted for by studying overall fatality rates. Lave calculated that from 1986-88, overall statewide fatality rates actually *fell* by 3.4 to 5.1 percent in the 40 states that adopted the new 65 m.p.h. maximum.

Moreover, engineering studies by Samuel Tignor, Davey Warren, and Martin Parker for the Federal Highway Administration show that average speeds increase negligibly when highway speed limits are raised. Indeed, Tignor and Warren write, "Raising the speed limit by various amounts up to 15 m.p.h. has little or no effect on speeds over a broad range of road types and speed levels."

This would seem to indicate, as traffic engineers like to say, that motorists tend to ignore posted limits, instead picking a speed at which they feel comfortable. But advocates like Retting and Stone see it differently. "If you let drivers set a speed that is reasonable and prudent, as Montana has," Retting says, "they can't do it." Adds Stone, "Yes, it's true that people were exceeding 55 before, but at least they were staying below 65. Now, with states raising limits to 70 and 75 m.p.h., the percentage of drivers exceeding 70 is going up, average speeds are going up. In Kansas and Missouri, fatalities have gone up."

True, April 1996 traffic fatalities in Kansas and Missouri *did* increase 20 and 28 percent, respectively, from the same period last year. But in Missouri, fatalities in May *dropped* by one from last year. And in Kansas, fatalities rose from 25 in April 1995 (before repeal) to 30 in April 1996—but in April 1994, Kansas highways claimed 37 lives under the former speed limit. Since the repeal of the federal limit, troopers and engineers in California, Florida, Idaho, Kansas, Maryland, Missouri, Montana, Nevada, Oklahoma, South Dakota, and Texas report that average speeds have not increased significantly—1 to 2 m.p.h. in most states—and fatalities have actually decreased in some states. Says Kiser of the Nevada DOT: "I think the only thing that really changed out there was the numbers on the signs."

To drivers, though, the changes are far more significant. Under the old federal limits, drivers seldom knew how far over the speed limit they could travel without receiving a ticket. Now, report many patrolmen, the limit is higher but enforcement is stricter. Says Howes of the Florida Highway Patrol, "70 is 70 is 70." Patrolmen can concentrate on ticketing the dangerous drivers—those traveling over the highway's design speed—and law-abiding citizens can relax and drive.

"[The police and I] are not adversarial anymore," says Raymond Kasicki, an independent truck owner-operator in Ohio. "Before you looked at them as someone who was out to get you. Now we're both looking for the same thing: people who are driving dangerously."

The Bureaucratic Disposition

It is easy to dismiss the repeal of the federal speed limit as token legislation, more of a statement of principle than legislation that improves our standard of living. The benefits, however, are palpable. In the Western states, motorists may drive hundreds of miles on flat roads with no other cars in sight. Why shouldn't they be allowed to pick a speed at which they feel comfortable? Why shouldn't the police be allowed to distribute their resources as they see fit? Why shouldn't state departments of transportation, working with the highway patrol, be allowed to set the speed limit according to local conditions? The repeal allows all of this to happen.

More importantly, the repeal of the national speed limit may signal new attitudes in Washington. The law was a typical Washingtonian notion: a one-size-fits-all rule that usurped state responsibility. Restoring the states' authority on this issue means trusting them to form safe and responsible policies. Says Soltani of the Oklahoma DOT, "I strongly believe that there is no relationship between higher speed limits and higher fatalities. If I did not believe that, I would not have recommended [speed limit increases] to the legislature."

And if we can trust the states in this area, why not others? The repeal recognizes two principles at the core of any argument for limiting the federal government: that federal legislation can be extremely inflexible, and that states will seek to protect their citizens. This renewed faith in local officials and doubts about the wisdom of federal solutions may be a bellwether of further devolution.

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Out of Order

By Steven G. Calabresi

On January 20, 1993, Bill Clinton raised his right hand and took an oath before God and the American people that he would "preserve, protect, and defend the Constitution of the United States." Now, as the next presidential election approaches, the American people are entitled to know whether he has kept his vow. Specifically, they are entitled to know something about the records being compiled in office by the men and women to whom President Clinton has granted lifetime appointments on the Supreme Court and the lower federal courts. Are Bill Clinton's judges mostly effective defenders of the Constitution, or are they legal realists who feel free to rewrite the Constitution? Are they moderate New Democrats committed to enforcing the law, or are they left-wing "political hangers-on" with a radical and unpopular agenda for social change?

To ask these questions is *not* to challenge judicial independence nor even the fundamental decency, on a personal level, of many of the Clinton judicial appointees. The decision that faces the American people is *not* whether *Bill Clinton's* judges should be impeached, or whether he should call on some of them to resign, or whether they should have been confirmed in the first place, or whether they are nice people or smart lawyers. The question is, "Given the president's record so far, can we expect a federal judiciary shaped by Bill Clinton to respect the Constitution and honor its role as the interpreter, and not the maker, of our laws?"

There are two major problems with Bill Clinton's judges. First, they have been unwilling to follow the Constitution in a number of very important cases. And, second, when they choose not to follow the Constitution, they have all too often replaced it with radical and unpopular left-wing social policy. In area after area, Bill Clinton's justices and judges are compiling a public "policy" record that is far to the left of the president's own public statements on similar issues. Bill Clinton may present himself to the public as a mainstream moderate, but his likable justices and judges are working quietly to impose a radical McGovernite legislative agenda on the country.

Bill Clinton's judicial appointments have had

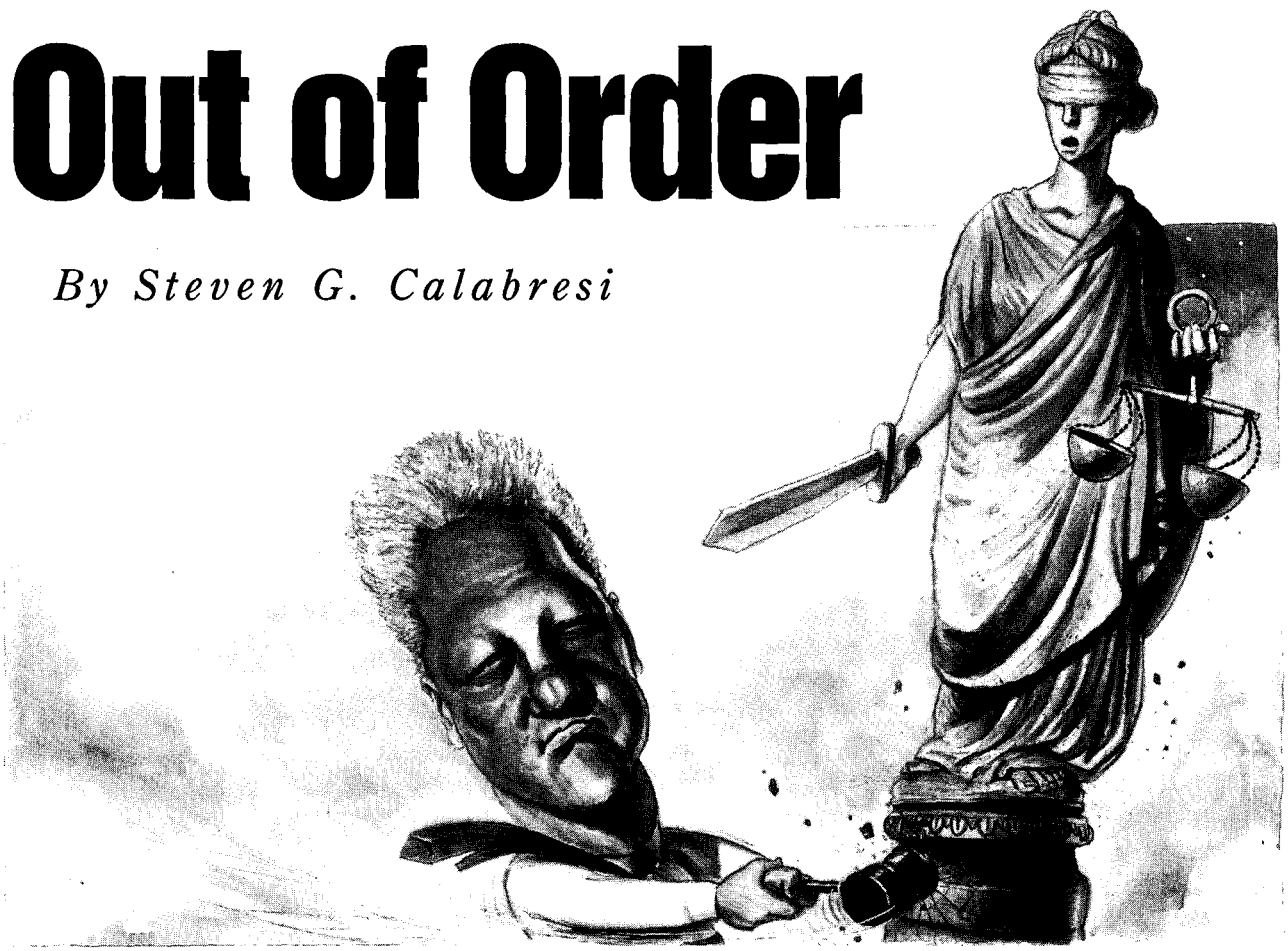

Illustration by Alexander Hunter

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their biggest impact to date on the U.S. Supreme Court. With only two appointees, he has succeeded in transforming a moderately conservative Court into one that is (at best) one vote away from being an engine of radical left-wing social change. His justices are the political heirs of William J. Brennan and Thurgood Marshall, and they have gotten the better of the lightweight

Many Clinton judges have replaced the Constitution with radical and unpopular left-wing social policy.

Republican justices imposed on Presidents Reagan and Bush by a Democratic Senate (and by liberal Republicans) after the 1987 nomination of Judge Robert H. Bork was viciously defeated. Many conservatives don't realize just how liberal Bill Clinton's two affable Ivy League justices really are. In part, this is because Justices Ruth Bader Ginsburg and Stephen Breyer are exceptionally bright and likable people. Nevertheless, in case after case they have voted for Big Government, against federalism, for a radical secular humanism that hates religion, against traditional social values, for the "rights" of pornographers and drug dealers, against private property, for racial quotas and preferences, and against the creation of a truly colorblind America.

The two Clinton justices depart from the William J. Brennan model of liberal judicial activism in only two significant ways: first, they write (or join) opinions that are more cagey and politically astute than blunderbuss opinions such as *Roe v. Wade*. As a result, the public is unaware of the extent to which radical left-wing policy ideas are seeping into our court opinions. Second, they do not oppose the death penalty across the board, although to some extent they resist its implementation. In every other important respect, the two Clinton justices are the children of the Warren Court, far-left ACLU judicial activists intent on writing their own radical and elite prejudices into the Constitution.

Many of Bill Clinton's lower-court judges (though not all) are equally or even more left-wing, but they have been unable so far to have much of an impact, both because they remain outnumbered and because the Reagan-Bush judges on the lower courts have turned out better in most parts of the country than have their brethren on the Supreme Court. If Bill Clinton wins a second term, however, this will change. In less than four years, he has filled about 25 percent of the seats on the federal judiciary. If re-elected to another term, he will have a chance to replace hundreds more retiring judges, and many of the federal courts of appeals will flip from Reagan-Bush to Clinton-Carter majorities. And depending on how lucky he gets, he will almost certainly name another one to three left-wing Supreme Court justices. This means that the few 5 to 4 wins that conservatives have managed recently will all become losses.

Let's look at what Bill Clinton's America will then be like, and contrast it with the America he claims to want. A good way to do this is to compare the specific policies Bill Clinton says he favors with the left-wing social policies that his judges are legislating from the bench. In doing this, we should remember that not all the Reagan-Bush appointments have turned out well, nor have all of Bill Clinton's judges turned out badly. Nonetheless, the overall pattern is quite clear.

Limited Government

"The era of big government is over" (January 23, 1996).

Or so Bill Clinton said in his last State of the Union address. Unfortunately, Justices Ginsburg and Breyer certainly have not yet been let in on the secret. Both have voted in favor of every single claim of national governmental power yet to come before them. Only a year ago, in *U.S. Term Limits, Inc. v. Thornton*, both Clinton justices were members of a 5 to 4 majority on the Court that struck down state-imposed term limits on Members of the U.S. Congress. As a result, the term-limit laws of 22 states, 21 of which had been adopted by the voters directly in initiatives or referenda, were declared invalid. The Clinton Justice Department filed an unusual "friend of the Court" brief to encourage this result. The fact of the matter is that Bill Clinton's Supreme Court justices killed the term-limits movement: had *either* of the two Clinton justices joined Justice Clarence Thomas's elegant and brilliant dissent, we would have term limits in most of the United States today.

These votes were not anomalies. In *United States v. Lopez*, both Clinton justices again voted for the position that the national government has unlimited power to regulate *all* aspects of the nation's economic, social, and cultural life. Justice Breyer wrote the main dissent for four of the nine justices and was joined by Justice Ginsburg. He paid only lip service to the idea that the U.S. Constitution limits the power of the national government in any way whatsoever. Under Justice Breyer's interpretation of the Commerce Clause, the federal government could nationalize education curricula, local law enforcement, family law, and everything else under the sun, so long as Congress could rationally

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think that doing so would in some attenuated way be connected to interstate commerce. Justices Breyer and Ginsburg clearly believe that the Big Government of the Great Society and the New Deal can do anything it wants to, so long as it does not violate the Bill of Rights or its "emanations and penumbras."

This past March, Justices Ginsburg and Breyer were again on the wrong side of an important federalism case. In *Seminole Tribe of Florida v. Florida*, they joined a strident dissent written by Justice David Souter that argued for overturning a 200-year-old understanding that state governments are protected from lawsuits in federal court by the doctrine of sovereign immunity. Casting aside years of settled understanding, Justice Souter argued that Congress should be able to authorize citizens to sue state governments without their consent—a theory that reduces the states from a position of co-sovereignty to one of abject subordination. Chief Justice William Rehnquist won the 5 to 4 vote in *Seminole Tribe* with no margin to spare, and the dissenters promised in their opinions to try to overrule the case at the first opportunity.

The Big Government activism of the Clinton justices also manifests itself in "separation of powers" cases since that doctrine, like the doctrine of federalism, is for them an inconvenient restraint on the unlimited power of the national government. Justice Ginsburg was one of only two dissenters in *Plaut v. Spendthrift Farm, Inc.*, an important case that limited Congress's power to retroactively command the federal courts to reopen final judgments in private civil actions already decided. Justice Breyer weighed in with a tepid separate concurrence in the case rather than join Justice Antonin Scalia's forceful majority opinion.

The Clinton justices are completely unwilling to enforce the Framers' written Constitution of limited powers, federalism, and checks and balances. Their idea of constitutional law begins and largely ends with a judicially dictated jurisprudence of unenumerated rights. Even the constitutionally enumerated right that protects private property from being taken without just compensation is given short shrift: Justice Ginsburg, for example, joined three other justices in dissenting from Chief Justice Rehnquist's important opinion in *Dolan v. City of Tigard*, which protected private property from confiscation by regulation. In that case, a municipal government was ultimately rebuffed in its attempt to force a shop owner to set aside 15 percent of her land as a public easement as a condition of receiving a building permit. Justices Ginsburg and Breyer also dissented in *Missouri v. Jenkins*, the Kansas City school-desegregation case. They joined an opinion that took the extraordinary position that federal judges can require local governments to raise taxes in order to fund remedial education and magnet schools.

Religious Freedoms

"[The First Amendment] does not convert our schools into religion-free zones. . . . I am deeply troubled that so many Americans feel that their faith is threatened. . . . When the First Amendment is invoked as an obstacle to private expression of religion, it is being misused. . . . Religion has a proper place in private and a proper place in public, because the public square belongs to all Americans" (July 12, 1995).

Or so said Bill Clinton in a widely reported speech at a suburban Washington, D.C.-area high school. It went unremarked at the time, however, that his two Supreme Court appointees had recently voted in *Rosenberger v. University of Virginia* to maintain our schools as religion-free zones. The issue in *Rosenberger* was whether a student activities fund, which was used to support various publications by student groups, could also be used to pay for the printing costs of *Wide Awake*, a Christian student newspaper. By a vote of 5 to 4, the Court said yes, over the dissenting votes of Justices Breyer and Ginsburg.

The opinion that they joined was a militantly secular tirade against any role for religion in any public institution. It reasoned that not a penny of public money can ever be spent on anything religious, even though public money is routinely spent in huge quantities on educational programs hostile to religion or to religiously inspired moral values. Under the ahistorical rhetoric of the dissenters in *Rosenberger*, it is hard to see how the courts could ever uphold government chaplains, Thanksgiving Day holidays, mottoes on our currency, school vouchers, or even tax deductions for religious organizations. The *Rosenberger* dissent theorizes that no government aid can ever go to any religious organization, even if the aid is equally available to comparable secular organizations.

Justices Breyer and Ginsburg joined a militantly secular tirade against any role for religion in any public institution.

"I personally did not believe that it was coercive to have a prayer at an outdoor sporting event or at a graduation event because I don't believe that it is coercive to people who don't participate in it" (November 14, 1994).

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A nice sentiment, but one that is unfortunately not shared by Judges Theodore McKee and H. Lee Sarokin, Bill Clinton's two appointees to the U.S. Court of Appeals for the Third Circuit. In fact, Judge McKee wrote the *en banc* opinion for the Third Circuit in *ACLU and Edward Ross v. Black Horse Pike Regional Board of Education,* a decision that banned student-led graduation prayers throughout Pennsylvania, New Jersey, and Delaware. Judge McKee's radical opinion went further than the U.S. Supreme Court has ever gone in this area by outlawing student-led graduation prayers as well as prayers organized directly by a school principal. In order to do this, Judge McKee had to reject a directly "on point" holding of the U.S. Court of Appeals for the Fifth Circuit, which had upheld student-led graduation prayers in *Jones v. Clear Creek Independent School District.* Four Reagan-Bush judges dissented from Judge McKee's opinion, while every Democratic appointee on the Third Circuit joined it. Judge McKee's pro-ACLU advocacy was so effective with his colleagues that he even brought a number of the feebler Reagan-Bush appointees along with him. Bill Clinton's hopes that we could have graduation prayer were dashed by his own appointee. Now, to determine what our national policy will be on this issue, an increasingly anti-religious Supreme Court will soon be obliged to hear and resolve the conflict that Judge McKee has created between the Third and Fifth Circuits on this issue.

Racial Quotas and Preferences

"I say to you, I'm against quotas. I'm against discrimination" (September 21, 1995). "Today, I am directing all our agencies to comply with the Supreme Court's Adarand decision, and also to apply the four standards of fairness to all our affirmative-action programs that I have already articulated—no quotas in theory or practice; no illegal discrimination of any kind, including reverse discrimination; no preference for people who are not qualified for any job or opportunity; and as soon as a program has succeeded, it must be retired. Any program that doesn't meet these four principles must be eliminated or reformed to meet them" (July 19, 1995).

Great rhetoric but, unfortunately, there are two Clinton appointees who will not be complying with the Supreme Court's 5 to 4 decision in *Adarand* outlawing quotas in federal programs. Yes, that's right—Justices Breyer and Ginsburg both dissented in that case, and Justice Ginsburg actually wrote one of the dissenting opinions. She tried to put a pro-racial-preference spin on Justice Sandra Day O'Connor's plurality opinion, and said she saw "today's opinion as one that allows our precedent to evolve, still to be informed by and responsive to changing conditions." Translated into everyday English, Justice Ginsburg hopes to distinguish or overrule *Adarand* at the first opportunity.

And what, you may wonder, was the "moderate" federal affirmative-action program in *Adarand* that Justices Ginsburg and Breyer were so eager to uphold? It was an explicit racial-preference program for government highway subcontractors, a preference so blatant that even many who support affirmative-action recruitment efforts in universities have condemned programs like this one. Justice Ginsburg was so enthusiastic about this particular program that she not only authored a dissenting opinion herself but also joined *two* other dissenting opinions: one by Justice Souter and another, even more radical, opinion by Justice John Paul Stevens. Justice Ginsburg was the only other member of the Court to join Justice Stevens's opinion, which would appear to uphold all federal racial-preference programs of any kind that are, in his opinion, well motivated.

Justices Breyer and Ginsburg have voted to uphold every racial preference or quota that has come before them.

Justices Ginsburg and Breyer's votes on the racial preference/quota issue in *Adarand* were not at all idiosyncratic. Rather, they form part of a pattern in which both justices have voted to uphold every racial preference or quota that has ever come before them. In particular, they have dissented in every voting-rights case involving challenges to political redistricting, decisions in which race played the predominant role. This past year, they joined the minority in the 5 to 4 decisions in *Shaw v. Hunt* and *Bush v. Vera,* in which the Court threw out racially gerrymandered congressional districts in North Carolina and Texas. Last year, Justice Ginsburg wrote the dissent for four justices (including Justice Breyer) in the companion cases of *Miller v. Johnson* and *United States v. Hayes,* in which the Court invalidated racial gerrymanders in Louisiana and Georgia.

The issue in these cases is whether it is unconstitutional to create wildly odd-shaped legislative districts for the purpose of maximizing the proportion of voters of a particular race, when such districts violate traditional districting standards of compactness and affinity of community interests. The purpose of this whole enterprise is to use federal voting-rights law to

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allocate congressional seats by race, so that every racial and ethnic group in the nation is proportionately represented according to their numbers in the population at large. While greater minority representation in public life is to be desired, this particular quota regime is in fact a stealthy imposition of the system of proportional representation used in places like Israel, Japan, Russia, and Germany (under the Weimar Republic). Everyone familiar with the unstable politics of those countries knows that this kind of rigid proportional representation is disastrous for social peace, because it rewards extremists and penalizes consensus building. For this reason, many have long thought that the Anglo-American tradition of allocating electoral districts geographically is better than the Continental European tradition of proportional representation.

The Ginsburg-Breyer view of racial gerrymandering would authorize nothing less than a racial quota system for Congress. By enshrining a system of racial and ethnic proportional representation, it would also codify a political system of racial spoils and push us toward the unstable electoral system that has been the bane of Continental European democracies.

Crime

"The United States cannot tolerate the rates of crime and violence which have come to be almost commonplace in the last several years. We have to intensify our efforts to reduce crime" (July 28, 1996).

Few issues are of greater concern to most Americans than the fight against violent street crime and illegal drugs, and, as is well-known, Bill Clinton loves to boast that his administration has been tough on crime and on punishing criminals. Once again, however, his judicial appointees often seem to be seriously "off message" when criminal-law cases are before the courts. In its most recent term, the Supreme Court decided *Lewis v. Casey*, a major case bearing on the right of prisoners to enjoy free prison libraries and legal assistance. The case involved how broadly to read an activist opinion from the 1970s by the late Justice Thurgood Marshall, which requires state taxpayers to subsidize frivolous prison litigation by providing free legal help and library facilities. In this particular case, a federal court in Arizona issued sweeping orders to state prison officials to address the complaints of state prisoners about the quality of their legal research materials.

The Ginsburg-Breyer view of racial gerrymandering would authorize a racial quota system for Congress.

Justice Scalia, writing for five Reagan-Bush justices, seized on the case as a chance to cut back on Thurgood Marshall's requirement that state governments subsidize prisoner lawsuits. Scalia argued that the federal courts had no business trying to run state prisons, and he set some common-sense limits on the bad precedent by making it inapplicable when prisoners' claims were frivolous or when prisoners were trying to bring legal action irrelevant to sentences and terms of confinement. Justice Thomas, in a brilliant concurrence, even called on the Court to overrule its offensive and nonsensical precedent. Justices Ginsburg and Breyer, however, chose to dissent from most of Justice Scalia's opinion. They joined a handwringing, meandering dissent that complained that Scalia was going too far and too fast in protecting state prison authorities and taxpayers from the desire of prisoners for good libraries.

This same term, Justices Ginsburg and Breyer also joined a sweeping opinion by Justice Stevens in *Jaffee v. Redmond* that recognized a disturbing new rule that could keep vital evidence of wrong behavior from being used in federal court for either civil or criminal trials. In that case, the Court held that conversations between a patient and her psychiatrist *or social worker* are protected from compelled disclosure during the course of a federal criminal or civil trial. The Court's decision to exclude a sweeping new category of evidence in this case is disturbingly reminiscent of the Warren Court's great exclusionary-rule blunders in the 1960s. Every time evidence is excluded from the courtroom, the task of proving the guilt (or innocence) of the culpable becomes more difficult. To impose this burden upon prosecutors in order to protect communications not only with psychiatrists but also with social workers is sheer folly. As Justice Scalia noted in his dissent, we don't allow a testimonial privilege in federal court for conversations with parents, siblings, children, or bartenders. Why on earth would we carve out such a privilege for social workers? Sadly, the case was lost by a vote of 7 to 2.

Justice Breyer cast two other noteworthy votes in criminal cases this term. First, he joined two separate opinions in *Felker v. Turpin* that sought to water down the new federal law for expediting the application of the death penalty. Second, he joined the dissent in an important 5 to 4 decision on whether police can apply a property seizure law designed to discourage prostitution. Had the dissenters' view prevailed, the customers of prostitutes would have been

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able to protect their cars from confiscation by co-registering them with the very wives they were betraying.

There are countless lower-court criminal-law opinions by Clinton appointees that are deeply disturbing. To mention just one example, consider *United States v. Hamrick*, decided by the Fourth Circuit Court of Appeals, where Clinton appointee M. Blane Michael joined a dissent that would have exonerated a defendant who had mailed a bomb to the U.S. Attorney who had prosecuted him. Judge Michael was of the view that the bomb was not a "deadly weapon" within the meaning of the federal criminal law, because it was badly made and didn't cause too much damage when it exploded!

As these examples illustrate, this administration is appointing some disturbingly fuzzy minds to the federal bench. Once again Bill Clinton's tough talk on crime is revealed to be nothing more than talk. His judges are rapidly bringing us back to the bad old days of 1960s Warren Court liberalism.

Mainstream Values

"When I sought the presidency, I said that I wanted . . . to put mainstream values back at the heart of social policy. . . . [W]e're moving in the right direction to reassert and reinsert into American life mainstream values. And, I believe the initiatives of our Administration have played a role in that" (October 13, 1995). "I know not everybody's going to be in a stable, traditional family like you see in one of those 1950s sitcoms, but we'd be better off if more people were" (September 9, 1994).

Mainstream values? Stable traditional families? So far, Bill Clinton's justices and judges have voted to: strike down his own liberalized policy on "gays in the military" as unconstitutional; require that gays be given special rights under certain state and local civil rights laws, thus forcing private landlords, elementary-school boards, and employers to associate with militant gays even if they don't want to; oppose an important Utah statute that regulates abortions *after 20 weeks*; and, incorporate a particularly strident and unreasonable version of the failed Equal Rights Amendment into the federal Constitution. And, they have managed to do all of this in just the last two years!

Let's take these "mainstream values" judicial opinions one at a time. As is well known, Bill Clinton shot himself in the foot shortly after he was elected by attempting to change the U.S. military's long-standing policy of refusing to allow homosexuals to serve in the military. After an enormous public uproar, he was forced to back down by moderate liberals like Senator Sam Nunn and Colin Powell, the chairman of the Joint Chiefs of Staff. In November 1993, he signed a statute creating a new "don't ask, don't tell" compromise policy; it was designed to quell public outrage by keeping outspoken gay individuals out of the armed forces, while making clear that the military should not pursue the expulsion of gays who did not commit homosexual acts and who did not discuss their private sexual activities and inclinations.

Since then two federal courts of appeal have heard cases on this issue. In *Stefan v. Perry*, the D.C. Circuit voted 6 to 4 that the long-standing pre-1993 policy of excluding homosexuals from the military did not violate the Constitution. Bill Clinton's sole appointee, Judge Judith Rogers, voted to invalidate the policy, as did all the Carter appointees. All of the Reagan-Bush appointees voted to uphold the policy. On April 5, 1996, the full U.S. Court of Appeals for the Fourth Circuit voted 9 to 4 to uphold the constitutionality of Bill Clinton's own "don't ask, don't tell" policy. Amazingly, *both* of Bill Clinton's appointees to that Court, Judges M. Blane Michael and Diana Motz, voted to strike down his own quite liberal policy as unconstitutional.

A constitutional right for homosexuals to marry, adopt children, or teach in grade school may be right around the corner.

But Judges Rogers, Michael, and Motz are by no means out of step for the Clinton judiciary on these matters. Last May, Justices Ginsburg and Breyer joined a 6 to 3 majority in *Romer v. Evans*. In that case, gay-rights groups had challenged a ballot initiative passed by Colorado voters that overrode all attempts by Colorado towns to enact special civil-rights protections for gays. Had the two Clinton justices joined the three dissenters in that case, Colorado's policy of legalizing homosexuality but not granting it preferential status would still be good law.

Some conservatives have been tempted to read the Court's confused opinion in *Romer*, which Justices Breyer and Ginsburg joined without comment, quite narrowly. This is almost certainly a mistake. The opinion contains opaque references to the illegality of "status discrimination"—a key issue in the "don't ask, don't tell" cases heard so far by the D.C. Circuit and the Fourth Circuit. If the Court pursues this idea of outlawing "status discrimination," and if it continues to view any failure to treat homosexuals like heterosexuals as being evidence only of "irrational animus," then there is no reason to

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think that a constitutional right for homosexuals to marry, adopt children, and teach in grade schools is not right around the corner. The Court's meandering opinion and the silence of the five justices who joined it offer no assurance whatsoever that *any* differential treatment of homosexuality is still allowed. Those conservatives who took comfort in the Court's refusal to say it was applying "strict scrutiny" (the highest level of judicial scrutiny) to classifications based on sexual orientation are being misled. The Court *is* applying strict scrutiny in this case, without acknowledging candidly that it is doing so.

The "mainstream values" of the Clinton judges don't end with issues bearing on homosexuality. In *Leavitt v. Jane L.*, the Court voted 5 to 4 to summarily reverse a decision of the U.S. Court of Appeals for the Tenth Circuit that invalidated those portions of a Utah state law that prohibited abortions after 20 weeks, except where the mother's life or medical health will be seriously threatened or where the child will be born with "grave defects." The case arose because under *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992), the Utah statute was unconstitutional insofar as it prohibited abortions before the fetus is "viable" outside the womb.

The Utah law, however, clearly provided for the "severability" of its other provisions in the event that one part of the law was ruled unconstitutional. The Tenth Circuit had willfully refused to sever the statute so that abortions after 20 weeks could be regulated. Five Justices joined a rare, short *per curiam* opinion summarily reversing this as blatant error. This short opinion reflected nothing more than the long-settled idea that even after *Roe v. Wade*, the states can still regulate third-trimester, "post-viability" abortions so long as no "undue burden" is placed upon the mother's right to protect her own life or health. Justices Ginsburg and Breyer, however, dissented. They claimed variously that the Court should defer here to the Tenth Circuit, that summary reversal should be used rarely, and (implicitly) that the issue was not important enough to merit a grant of *certiorari* and a summary reversal. Do they intend in a Clinton second term to try to extend the near-total right to abortion in *Roe* to third-trimester abortions or to infanticide? Why would anyone with "mainstream values" join an angry four-justice dissent in an easy severability case like this?

Then, of course, there is the Court's "mainstream" opinion by Justice Ginsburg in *United States v. Virginia* where the Court held that the Virginia Military Institute, an all-male military academy funded by the state of Virginia, could not constitutionally exclude women. This case is remarkable less for its invalidation of the all-male program at VMI than for its writing into the Constitution a particularly extreme version of the Equal Rights Amendment—which had failed to win popular support and passage through legitimate channels in the 1970s and early 1980s.

Justice Ginsburg wielded the Fourteenth Amendment's Equal Protection clause to create a new standard of strict scrutiny for gender classifications, while using a milder label that minimizes the political fallout for liberals in the White House and in Congress. Henceforth, says Justice Ginsburg, gender classifications require "an exceedingly persuasive justification" and are subject to "skeptical scrutiny." They may not be used to do anything that *in the view of the justices* "creates or perpetuates the legal, social, or economic inferiority of women" nor may they rely on anything that *in the view of the justices* involves an "overbroad generalization about the different talents, capacities, or preferences of men and women." Thus if American society thinks that single-sex draft registration or combat rules are desirable, it is going to have to say something "exceedingly persuasive" to a "skeptical" Justice Ginsburg. If American society wants single-sex sports teams at its state schools, it must have something "exceedingly persuasive" to say to a "skeptical" Justice Ginsburg. If American society wants to offer charitable tax-exempt status to a private women's college or to a Roman Catholic Church priesthood, it is going to have to say something "exceedingly persuasive" to a "skeptical" Justice Ginsburg.

Single-sex combat units, draft registration, football teams, and private schools may now be unconstitutional.

As Chief Justice Rehnquist (in his concurrence) and Justice Scalia (in his dissent) both pointed out, this anti-democratic, elitist nonsense has nothing at all to do with the very important subject of the equal rights of women. Justice Ginsburg made no effort in her opinion to explain why she thought VMI was unconstitutional while single-sex combat units or football teams were O.K. That is because she is not interested in equal rights for women in the sense that most Americans would understand that term. What Justice Ginsburg wanted to do all along, and did do, in the VMI case was to lay the doctrinal groundwork for a final assault on *all* remaining classifications and social practices, both public and private, wherein any distinction between men and women is made according to gender. She does not identify a single gender classifica-

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tion or social practice, either public or private, that she is definitively willing to approve. The door is being flung open to a massive judicial assault on our sexist military services, football teams, private single-sex schools, and religious organizations.

The V-Chip

"I call on Congress to pass the requirement for a V-chip in TV sets so that parents can screen out programs they believe are inappropriate for their children. When parents control what their children see, that is not censorship. That is enabling parents to assume more personal responsibility for their children's upbringing" (January 23, 1996).

Bill Clinton likes to leave voters with the impression that he is concerned about inappropriate television programs aimed at children. Unfortunately, Justice Ginsburg did not agree in the Supreme Court's recent *Denver Cable* case. In that case, the law in question sought to modify the public-access policy governing local cable networks that required them to broadcast indecent programming without restrictions. Astonishingly, Justice Ginsburg was one of only two justices on the Court who voted to hold unconstitutional *every single restriction* before the court that was aimed at suppressing indecent programming available to children watching TV. Justice Breyer's more moderate opinion would uphold a restriction like the V-chip, but not a reasonable requirement that people who want to subscribe to indecent programming must do so by taking some affirmative step to sign up for it. Evidently Justice Breyer is more concerned about the privacy rights of adults who watch indecent programming than about the rights of children who may accidentally see such programming on cable TV.

Justices Ginsburg and Breyer's extreme solicitude for the consumers of pornography is shared by both of Bill Clinton's two appointees to the D.C. Circuit. Judges Judith Rogers and David Tatel were on the dissenting side of a 7 to 4 *en banc* decision that upheld a federal law restricting the broadcast of indecent material to the hours of 10 P.M. to 6 A.M. All seven judges in the majority were Reagan-Bush appointees, while all four of the dissenters were appointed by Presidents Clinton or Carter. It is by no means clear to me that this law would survive review on the Supreme Court today, given Justices Ginsburg and Breyer's views on indecency, the First Amendment, and the rights of children.

The last two years have seen a large number of opinions that are contemptuous of the values and prerogatives of the American people.

As I hope I have made clear, the U.S. Supreme Court is now dangerously adrift. The last two years have seen an increasingly large number of opinions that are contemptuous of the beliefs, values, and prerogatives of the American people as well as of the democratic process itself. The Clinton justices have almost always been on the wrong side of these cases, and in many instances they have joined minorities of four in support of propositions that are ludicrous and offensive. Although Justices Souter, Kennedy, and O'Connor deserve some of the blame, the other three Reagan-Bush justices have been stellar. Justices O'Connor and Kennedy have joined those three to produce some very important 5 to 4 victories in fighting off racial quotas, allowing religious speech, curbing Big Government, protecting private property, and fighting crime. If Bill Clinton is re-elected and replaces any of those five justices with another "moderate" like Justices Ginsburg and Breyer, then every single conservative victory of the last 28 years will be at great risk of being overturned. The Warren Court ended when Richard Nixon won the presidential election of 1968; the presidential election of 1996 will determine whether the era that Nixon inaugurated is now to be replaced by a new burst of radical left-wing judging.

But what are we to make of Bill Clinton's role in all of this? Is it remotely plausible to think that he doesn't realize how far to the left his own justices and judges are of his own public statements on issue after issue? No, it is not plausible. Bill Clinton is a former professor of constitutional law, a Rhodes Scholar, and a graduate of Yale Law School. He knows perfectly well the views of the justices and judges he is nominating.

Obviously, these are very difficult times for anyone who believes in a restrained, law-abiding federal judiciary. There is, however, one consoling thought. If Bill Clinton is re-elected, he will have a mandate from the American people to rein in Big Government, protect religious speech, oppose racial preferences, preserve mainstream values, fight indecent television programming aimed at children, and fight crime and drugs. Which jurist could Bill Clinton possibly name to the Supreme Court whom he could count on to do all of the things that he says he wants done? The answer is obvious: renominate Judge Robert H. Bork.

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Arise, Take up

Most homeless programs fail because they protect lifestyles that produce homelessness and neglect the moral and spiritual means to overcome it.

Spend a little time in virtually any city in America and you'll see them—in doorways, under bridges, poking through trash cans, begging for loose change. They are America's homeless. They no longer wear the face of the 55-year-old alcoholic man; they look more and more like young crack addicts, battered women and children, prostitutes, gamblers, and AIDS sufferers. On any given day, about 600,000 people are living either on the streets or in shelters trying to stay alive.

Americans are a compassionate people. But traditional approaches to the problem—promoted through government initiatives and many private charities—have been so ineffective at treating the fundamental causes of homelessness that we must reconsider what it means to help our neighbors in need.

Many government programs assume that homelessness is simply the absence of four walls and a roof. Usually it is not: The lack of affordable housing, though a problem, is not why most of these people have no permanent address. Most people in trouble economically have friends and families whose homes they could share temporarily if they choose to. The level of government spending on the problem likewise leaves deeper issues untouched. There are more than 60 separate federal programs that provide some form of help. The federal Department of Housing and Urban Development (HUD) now operates homeless shelters and drug rehabilitation programs in every major city in the United States. But the rates at which the able-bodied homeless graduate to independence from these programs rarely rise above single digits.

America need not settle for this level of failure. If anyone can testify to that, we can.

The International Union of Gospel Missions—whose staff members often emerge from the ranks of the formerly homeless—has been helping the destitute break the cycle of dependence since 1913. Last year, our emergency services and long-term rehabilitation programs helped 14,000 homeless men and women achieve self-sufficiency. These were not "easy" cases. Thousands walked into our doors addicted to alcohol, heroin, crack cocaine, and other drugs. Many have been prostitutes, or veterans who couldn't adjust to civilian life. Many have committed crimes, served time in prison, and failed other rehabilitation programs.

Our experience teaches us that America needs nothing less than a reformation in the way we think about homelessness. Many traditional and government-funded approaches fail not for lack of money but for a deficit of vision: They do not treat the whole person. They neglect the familial and moral aspects of a person's life. They refuse to challenge the homeless person's fundamental way of thinking. Says Rev. Mickey Kalman, the executive director of City Rescue Mission in Oklahoma City: "The philosophy of government homeless programs is to respect and protect lifestyles that produce homelessness."

Most significantly, these programs ignore the central dimension of the problem—the spiritual. After more than 35 years of trying to help homeless people with every imaginable problem, I cannot escape this fact: Men and women who walk away from their jobs, their families, and their homes do so because, fundamentally, they are turning away God and His claim on their lives. But government-funded policies, by definition, must exclude this vital dynamic from the discussion. It is a prescription predestined for failure.

Not only are government approaches not working, but government regulations continue to impede or thwart the most innovative pro-

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By Rev. Stephen Burger

Thy Mat, and Walk

Photo courtesy of International Union of Gospel Missions

grams. Labor laws, zoning issues, licensing requirements are all getting in the way of private, religiously based efforts to deliver effective care. Authorizing block grants and returning power to the states will not by themselves make much of a difference, because it's state and local governments that throw up some of the most egregious obstacles to our faith-based shelter programs. Moreover, much of government's regulatory itch is aggravated by blindness to the moral and spiritual causes of homelessness.

What follows are some of the dynamics of change: We make sure that these elements are present in all of our 245 rescue missions in the 210 cities in which we operate nationwide. Though our missions offer various educational, job-training, relational, and other skills, these three principles establish an ethical and religious foundation without which all our other efforts would amount to nothing.

The Faith Factor

It is very difficult to overstate the importance of the spiritual aspect of this problem. *Spiritual renewal is the fountainhead for personal transformation.*

Enoch Walker was married and had a child he loved, a job he enjoyed, and a house in Washington, D.C. Then he began abusing alcohol and drugs, what he calls "the great removers" in his life, because they became more important to him than his family and friends. Soon his wife left him, taking their child. He became so abusive that even his dog left him. He lost his job, smashed his car, and started living on the streets.

Walker went through several rehabilitation programs. He doesn't know the precise number because he doesn't even remember some of them. Yet each time, he slipped back into addiction. "When I was functional, I would put on a nice three-piece suit and go and get the good jobs," he says. "But it was like putting a three-piece suit on a fish. Nothing would happen on the inside."

Then he checked himself into the Gospel Rescue Ministries of Washington, D.C. There, he received not only mental and physical counseling, but something else—spiritual guidance. As he says, "They reached my heart and . . . gave me an awakening." He has now been clean for three years, and is a self-employed carpenter with two other men working for him.

Walker's story is important because his background is so typical of America's homeless population. Homeless advocates are quick to point out that many of the homeless suffer serious or acute mental illness. They are correct.

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There are no easy answers for how to help heal these people and restore balance and normality to their lives. Many of them may never leave an institutionalized or group-home setting.

The mentally ill, however, do not make up the majority of the people who walk into our centers. About 80 percent of the homeless who enter the City Mission in Cleveland, for example, show symptoms of substance abuse. At our Mel Trotter Ministries in Grand Rapids, Michigan, perhaps 90 percent struggle with addictions that have helped spawn and sustain a whole set of destructive attitudes and behaviors. There is simply no way to get at those behaviors without first helping the addict break his or her addiction for good. Most government and traditional shelter rehabilitation programs are notoriously poor in curing addictions. Many do not even try.

But those that do suffer from a crucial flaw. Although grounded in the best of intentions, federal programs by law can only administer to mental and physical maladies, not the spiritual. Any homeless programs that receive federal funds "must provide shelter and other eligible activities in a manner free from religious influence," writes Michael Stover, HUD's assistant general counsel for the Rocky Mountain region, in a 1995 legal brief. "It may not provide religiously oriented services to persons using the homeless shelter and must not hire only persons from a particular religious persuasion." There it is: an explicit rejection of faith as the crucial component of change. This is why the overwhelming majority of our mission directors steer clear of government funding.

We've seen countless people wander into our shelters with a mind-wrenching addiction to crack cocaine, for example, and it's obvious to us that it takes more than physical and mental counseling to break that grip. Simply telling that addict to eat his vegetables and study the multiplication tables just isn't enough. Ask any of our mission directors, many of whom have 20 to 30 years experience helping the homeless: The spectrum of addictions and difficulties from which the homeless suffer have no long-term cure outside of a heartfelt commitment of faith.

"Skid Row is not a geographical location," says Kalman, a former drug addict. "It's a heart condition. Unless you change a homeless individual's heart—not just his mind and body—he will remain homeless."

For this reason, all of our missions instill in homeless people the reality of a God who loves them, cares for them, and wants to help change them. In our view, based not only on our theology but on our experience, it is Jesus Christ, not any program, who transforms a man's or woman's life, who gives them the strength to summon the courage to break their destructive habits.

"Hey—I'm Hungry."

Those involved with rescue missions know the difficulties and dangers of inner-city life. Many, like Mickey Kalman, spent years on the street—drifting, stealing, begging, and doing drugs—until they reached out for help. Kalman, now the executive director of City Rescue Mission in Oklahoma City, was invited to speak at the 1996 Republican National Convention, in San Diego.

Mickey Kalman's young life centered around alcohol. "I grew up with drunks and learned to drink," he says. He joined a gang. When he wasn't travelling and getting into mischief, he found trouble locally. At one point he pulled a gun on his teacher, threatening to "blow his brains out." By the age of 12, he was on probation.

Later Kalman got involved with drugs. "Once I ran away with a shipment of dope, sold it, and hid out in Wyoming," he remembers. "When I didn't have money for gas, I siphoned it out of construction trucks."

One day he found himself in Stockton, California, alone and hungry. He'd been living on the streets for the better part of two years. He walked up to the door of a rescue mission and said, "Hey—I'm hungry." The man at the mission offered Kalman some food and some work. He didn't usually get offers for work, but he agreed. Kalman decided to enter the rehabilitation program, where he found faith in God and the power to turn his life around.

Today, Rev. Mickey Kalman oversees a mission budget of $1.4 million, with a staff of 21. Thousands are helped by his mission every year. "Rescue mission work isn't easy," he says. "It's hard to love some of the people who come to us . . . [but] when they knock, I say, 'Come on in. My name is Mickey Kalman. How would you like to stick around and do a little work?'"

A Moral Incubator

Hand in hand with faith commitment is the sustained determination—both from shelter staff and the homeless themselves—to stay clean, hold down a job, or save a marriage. *The homeless need an environment in which they are challenged to acknowledge and consistently renounce unhealthy behaviors; otherwise, they won't acquire the practical or emotional skills they need to succeed.*

Mouthing a religious commitment is not enough; there must be actions to match. Our shelters insist not on perfection, but on repeated, good-faith efforts to change. And with God's grace, and a disciplined environment, they do. "We not only place responsibility on our clients,"

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says Rev. Carl Resener, the executive director of the Nashville Union Rescue Mission, "we demand that, as a condition of living at the mission and participating in its programs, these men and women change their destructive habits."

This is one reason our shelter programs span several months. It gives the homeless time not only to rid themselves of their addictions, but also to build a foundation of faith, education, and social skills necessary to succeed in life. Consider our Regeneration Program at our Miami Rescue Mission. Rev. Frank Jacobs, the executive director, oversees an eight-month recovery program for 130 men. Bible study is mandatory. The men commit to memory biblical passages—they call them "arsenal verses"—that address behavioral problems such as drunkenness, laziness, and theft. The mission also offers a three- to four-month period of daily instruction on coping and social skills, with a heavy emphasis on relapse prevention.

Listen to Raymond Nastu, a drug addict arrested more than 80 times for offenses ranging from drug possession to brawling. He checked into the Bridgeport Rescue Mission in Connecticut. "I should have been dead so many times I can't keep track of them," he says. But the mission's strict regimen and climate of tough love turned him around. "I never had people care about me the way they do here, and that gave me the hope and courage to believe I could change." Today, Nastu is drug free and works as a carpenter.

Now compare that to some of the larger shelters in the country that place virtually no conditions on their residents. The results have not been pretty. Take the Mitch Snyder Shelter, in Washington, D.C. It is named after the homeless activist whose 1983 hunger strike prompted the Reagan administration to renovate a federal building so that it could be used as a homeless shelter. As documented by a *60 Minutes* exposé, this shelter has been a haven for the selling of crack cocaine and liquor, as well as misuse of charitable funds and general corruption.

Friends and Family

Our missions place a heavy emphasis on rebuilding relationships—to one's family, friends, and religious community. *Positive relationships are a vital link between the homeless and lasting rehabilitation.*

"We don't always want to put our clients back with their old friends because sometimes the old friends are the problem," says Rev. George Verley of the Union Gospel Mission in St. Paul. "However, the worst thing in the world is for them to be alone, so we teach them to establish relationships. It's vital that they have this support structure when they leave us."

This is probably one of the most overlooked elements of most traditional and government-funded shelter programs. The homeless typically are treated in utter isolation; little attempt is made to reconnect them to family members. Yet when caregivers don't know a person's family background, it often becomes much more difficult to discern the most effective ways to help.

Many shelters, fearful of crossing church-state lines, do not even introduce the homeless to religious communities that could offer support. The Salvation Army shelters are a noteworthy exception here, but the majority of shelters have no process for helping a recovering addict plant roots in his or her community.

There may be no more important step for a formerly homeless person, however, than to be grounded in a community of caring, committed individuals. Listen to Enoch Walker again: "If you do not have people surrounding you who care about you and give you unconditional love and give you the time that it takes to work yourself through it and work with you, I do not really see too many people who can make it." The pressures of life, the temptations of the street, the siren call of old habits—all can easily prove to be too much for the men and women struggling to get back on their feet.

The Department of Housing and Urban Development says any shelter receiving federal funds must operate "free from religious influence."

The Government Albatross

We know that these and other principles are crucial to effectively helping the homeless help themselves. Though we don't expect the people we serve to pay us a dime—most couldn't—that doesn't mean we have no expectations of them. "There are two root causes of homelessness," says Rev. Mike Edwards from the Los Angeles Mission. "Lack of relationships and lack of responsibility. Re-establishing a sense of both is key to our long-term success."

Success for us means much more than feeding people and keeping them safe, as important as those objectives are. Our aim is to help people break their addictions, learn basic life skills, and become honest, productive members of their communities. Over the last few years, we've conducted internal studies of our programs and the results are truly encouraging: The vast majority of our missions achieve success rates of more

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than 50 percent, with many achieving success rates of 70 or 80 percent. That means that most of the people who graduate from one of our programs become independent; a few slip back into old habits, but most remain addiction free, employed, and connected to family and friends.

Our success is also reflected in support from our communities. Eight years ago, the cumulative budgets of the 210 U.S.-based member missions in the International Union of Gospel Missions totaled $50 million. Today, IUGM counts 245 missions as members, and their cumulative budgets add up to more than $300 million. The overwhelming majority of our programs are funded privately, through individual donors, churches, and corporate sponsors. We don't require or expect government to lend a hand—and it hasn't.

Nor do we expect government to get in the way of our efforts—but it has. There are several areas where government bureaucrats have been unsupportive or downright hostile to rescue ministries' efforts. These include labor laws, zoning issues, licensing, surplus food distribution, and disaster relief.

There are two root causes of homelessness—a lack of relationships and a lack of responsibility.

Most of their objections stem from their reading (misreading, actually) of the First Amendment's religion clauses, designed to ensure citizens' basic religious freedoms. To which we respond: If we want a person to be truly free, that person must first be free of drugs. This is the promise rescue ministry fulfills.

Consider the following trouble areas:

Labor. For years, rescue missions have struggled with the issue of whether homeless men and women who do work in the missions as part of rehabilitation qualify as employees under the Fair Labor Standards Act. In September 1990, the Labor Department determined that the Salvation Army had to pay the minimum wage to clients performing work as part of rehabilitation, unless the Army's location registered as a "sheltered workshop." (Sheltered workshops historically have been places handicapped people went for training, not live-in facilities.)

After much political and legal wrangling, the Labor Department suspended enforcement pending further study. The policy remains in suspension, but has not been formally revoked.

Zoning. City and county boards have stopped or interfered with mission programs across the nation. The Denver Rescue Mission is located in an area known as Lower Downtown or "LoDo." This was formerly Denver's Skid Row, an area where the destitute congregated. In recent years, however, the area has been redeveloped and now supports a burgeoning night life.

That welcome development has had a most unwelcome side effect: City officials have ratcheted up their efforts to curb the mission's work. For example, on cold nights, the 110-bed mission used to set up about 40 cots in the chapel to meet the increased need. City officials never raised any objection because it took people off the street. Today, city officials flatly prohibit this practice.

City officials in Daytona Beach, Florida, have not allowed the Daytona Rescue Mission to locate within the city. The mission has gone to federal court. In Albany, New York, the Capital City Rescue Mission has been trying to relocate in order to expand its services. Recently, the city rejected the mission's request to move to a previously agreed-upon property. Other missions that have encountered significant roadblocks include the Union Gospel Missions of Dallas, Spokane, and Yakima, Washington.

Licensing. The licensing of faith-based programs, beyond issues of health and safety, has become a major impediment to many missions' spiritual integrity. Licensing has brought regulations such as a "client's bill of rights" in Tennessee, which originally included the right not to be presented with religious teaching. (That's somewhat like organizing a football team and including the right not to be touched!)

Then there is the case of the City Mission in Schenectady, New York. It was cited by New York's Department of Social Services because it prohibited pornographic materials from its facilities. Only after three months of negotiation did the mission and state authorities reach agreement that the mission was within its rights to prohibit pornography.

"We determined that on health and safety issues, we would submit to government regulations," says Eivion Williams, the mission's executive director. "But this was an issue of morality—what was right and what was wrong—and we stood firm. And in the end, we wound up getting what we asked for."

Food Distribution. For many years, rescue missions accepted federal surplus food and distributed it to the needy without excessive oversight or regulation. In December 1993, however, the U.S. Department of Agriculture mailed a memo to missions in its Western region that stated that USDA commodities were not to be used in meals where individuals were required to attend religious services. This caused confusion

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among many mission directors who were uncertain how to interpret the new rules. On advice of counsel, some missions have turned down USDA commodities because they believe accepting the food would subject them to federal regulations that compromise religious teachings.

Indeed, one of the interesting contradictions of federal policy is that schools, day-care programs, and early childhood development classes operated by churches may serve surplus food—even though their programs are grounded in religious beliefs. The government seems to believe that children in religious programs need good food, but homeless in religious programs do not.

Tonight 27,000 people in America are staying in rescue missions. Each is being fed, sheltered, and assisted. Last year, rescue missions served more than 28 million meals to the poor and homeless. That's enough to provide a meal to every resident in the state of California. Yet each person is also being challenged with hope and opportunity. Our rehabilitation programs involve over 11,500 men, women, and children.

Rescue missions are poised to continue their dramatic growth and success. Drug rehabilitation programs are expanding to meet the increasing need. Computer training and educational programs are now staples at many missions, providing GED preparation, core curriculum classes, drivers education, and job training. Missions are also setting up joint ventures with local businesses to give reformed addicts on-the-job training.

Unfortunately, our optimism at the progress of our missions is tempered by the cold realities of the street. The face of homelessness in America is changing. It is getting younger and more female. Children, once a rarity at shelters, are showing up with increasing frequency—and this cannot bode well for American society.

There are other problems. As Rev. Tom Laymon, the executive director of Mel Trotter Ministries in Grand Rapids, observes, "There is an aging population in our prisons that will eventually be given back to society. Many will have spent decades in prison. This means a whole new generation of 'older homeless' will be out on the streets and in need of our services."

Amidst this trend, federal and state homeless and anti-poverty programs—devoid of moral, spiritual, or religious counseling—will continue to fail. The answer is not for government to get into the religion business, but, at the very least, to get out of the way of religiously based groups that are making a decisive difference in people's lives.

We have identified more than 100 American cities with populations of over 40,000 that are without a rescue mission. In 10 years, IUGM wants to have programs in each of these. Our hope and prayer is that missions around the country will demonstrate the power of a well-rounded program that nourishes mind and body, spirit and soul.

Rev. Stephen Burger *is the executive director of the International Union of Gospel Missions. Also contributing to this article were Rev. Mike Edwards of the Los Angeles Mission, Rev. Del Maxfield of the Denver Rescue Mission, and Rev. Lee Schmookler of Goodwill Home and Missions in Newark, New Jersey.*

Missions of Mercy

The Fresh Start Program (Los Angeles Mission). Fresh Start has become a beacon of hope for addicts on L.A.'s Skid Row. Designed at the Los Angeles Mission, this 12- to 18-month program offers personal counseling, work therapy, a computerized learning center, physical education, and Bible study. Approximately 200 men are enrolled. Graduates of Fresh Start have set up an Alumni Association to assist with the transition back into the community. Over the last four years, 68 percent of graduates have left the streets, have established a residence and gotten involved in a local church, and have gained employment and stayed with that job for at least one year. Cost: $35 per person per day.

New Life Rehabilitation (Denver Rescue Mission). New Life Rehabilitation is a 6- to 24-month program for approximately 100 men and women. This five-stage program focuses on setting and meeting goals—personal, educational, and behavioral. To help with the transition to the outside, the mission has a manufacturing business, Harvest Industries, in which recovering addicts earn money assembling musical products for a local corporation, Ultimate Support Systems. For single mothers and children, there is Champa House, which teaches educational and parenting skills while allowing each mother to work through her own personal issues. Cost: Less than $30 per person per day.

Harvest Home (Haven of Rest Ministries in Akron, Ohio). Harvest Home is an emergency shelter for homeless women and children. In addition to food and clothing, it provides a variety of rehabilitative services including computer-enhanced education classes, parenting and life-skills training, individual counseling, expressive art therapy, and Bible study. Roughly 80 percent of Harvest Home's clients are chemically dependent when they arrive. Cost: About $35 per person per day.

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AmeriCorps the Beautiful?

Harris Wofford & Steven Waldman say conservatives should love Bill Clinton's national-service program; Doug Bandow says it's hollow at the corps.

Habitat for Conservative Values

by Harris Wofford & Steven Waldman

Let's conduct what Charles Murray might call "a thought experiment." Imagine it's 1993 and Newt Gingrich has been sworn in as president. In his Inaugural Address, he pledges to "dismantle the welfare state and replace it with an Opportunity Society." He appoints a task force of the party's most creative conservatives to ensure that citizen action will fill the void left by the withdrawal of government.

There is, by no means, unanimity. The Cato Institute's Doug Bandow argues that as government recedes, charities and volunteer groups will naturally fill the gap. Arianna Huffington says that the nonprofit sector must become more effective and less bureaucratic. Gingrich agrees and advises the task force to look at Habitat for Humanity as a model for truly effective compassion—inexpensive, nongovernmental, and faith-based.

From Switzerland, William F. Buckley Jr. faxes in a chapter from his book *Gratitude* calling for a national-service program to engage young people in solving problems outside of government bureaucracies. Jim Pinkerton urges the re-creation of the Civilian Conservation Corps on a massive scale. Colin Powell reminds the group that the most successful race- and class-mixing program has not been busing or quotas but service in the U.S. Army.

William Bennett argues that all government benefits ought to require something of the beneficiaries in turn, shattering the entitlement mentality created by years of Democrat-created welfare programs. Senator Dan Coats suggests that government's role should be confined to helping local community-based institutions solve their own problems.

The task force decides unanimously that there should be no big federal program, with armies of Washington bureaucrats telling communities what to do. Instead, Washington would give money to states to help local community groups help themselves.

And, inspired by Buckley, the members of the task force hit on an innovative idea. Instead of just giving grants to nonprofit groups, thereby creating nonprofit bureaucracies, they could model it after programs like the Jesuit Volunteer Corps, to which committed young people devote themselves for a year or two of service. The federal government would in turn provide that young person with a "service scholarship." This would, someone points out, establish a principle that the "educrats" in the higher-education lobby have always opposed: financial aid awarded not on need but merit, merit in this case defined as a willingness to serve one's country.

Pollster Frank Luntz tells Gingrich that even though it's a decentralized, community-based program, the young people it engages should be linked together with a national spirit—and name. Haley Barbour suggests "RepubliCorps" but Gingrich believes that might deprive it of bipartisan support. He asks his advisors to come up with a better name and gives them one bit of advice, "Don't be afraid to make it sound patriotic. Unlike the other party, we are not embarrassed to be Americans." So Luntz has a brainstorm: Let's call it "AmeriCorps."

The reality, of course, is that Bill Clinton thought of AmeriCorps first, and most Washington Republicans ended up opposing it as typical

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Big-Government liberalism. Republicans in Congress are now on the wrong side not only of the politics—AmeriCorps is popular with voters—but of their own ideology.

There is, however, a striking difference between the comments of Beltway Republicans and those in the rest of the country. New Hampshire governor Steve Merrill has called AmeriCorps "a great success in the state of New Hampshire." Michigan governor John Engler has said AmeriCorps "captures the promise found in all citizens." Arizona governor Fife Symington said he was "enthusiastic and impressed with the work of AmeriCorps." And Massachusetts governor William Weld called it "one of the most intelligent uses of taxpayer money ever." Let us explain why we think these Republican governors are right.

Readers of *Policy Review* will not need much persuading that government cannot solve many of our problems. But just as liberals have to be more realistic about the limits of government, conservatives need to be more realistic about the limits of the volunteer sector. One of the most common criticisms of AmeriCorps is that it is not needed in a nation in which 90 million people are volunteering. That is a weak argument.

First, one-third of the volunteering done by those 90 million Americans consists of serving on committees, baby-sitting, singing in the church choir, or other activities that are beneficial but hardly a substitute for the welfare state. Second, while the potential power of the volunteer sector is awesome, the trend is in the wrong direction. Just as a social consensus against government solutions has begun to emerge, Americans have been volunteering *less*, according to estimates by the Independent Sector.

As women have moved into the labor market, the composition of the volunteer force has changed. Most people now are free only on weekends or evenings. That limits the types of volunteer work they can perform. Most important, harnessing the power of volunteers is not easy. Volunteers need to be trained, supervised, and deployed well to be effective. As former Michigan governor George Romney said, "There is no free lunch when it comes to volunteering."

Some conservatives argue that even if the charitable sector has limits, governmental solutions will only make matters worse. "Paying" AmeriCorps members, the argument goes, subverts the idea of volunteerism—labor given for love, not money. In an article for the January-February 1996 issue of *Policy Review*, John Walters of the New Citizenship Project argued that AmeriCorps's "very premise—using federal resources to promote voluntarism—contradicts the principle of self government that lies at the heart of citizenship." Paid volunteerism, he wrote, would sap the strength of the nonprofit sector at precisely the moment when it most needs to flourish.

This argument ignores the experience of the past two years. Many of America's most respected nonprofits, from Big Brothers/Big Sisters to the YMCA to the American Red Cross, participate in and staunchly support AmeriCorps. A year ago, leaders of 24 volunteer groups wrote that AmeriCorps is an "enormously beneficial addition to the traditional voluntary sector. This program has not undermined our position, rather it has enhanced our efforts and strengthened our institutions."

To understand why, consider the case of Habitat for Humanity, one of the most successful faith-based volunteer groups. The founder, Millard Fuller, was wary of any involvement with AmeriCorps precisely because he feared a government program would distort the religious nature of his effort. But on the urging of his board, Habitat brought in some AmeriCorps members.

Fuller used AmeriCorps to solve a particular problem. Habitat was

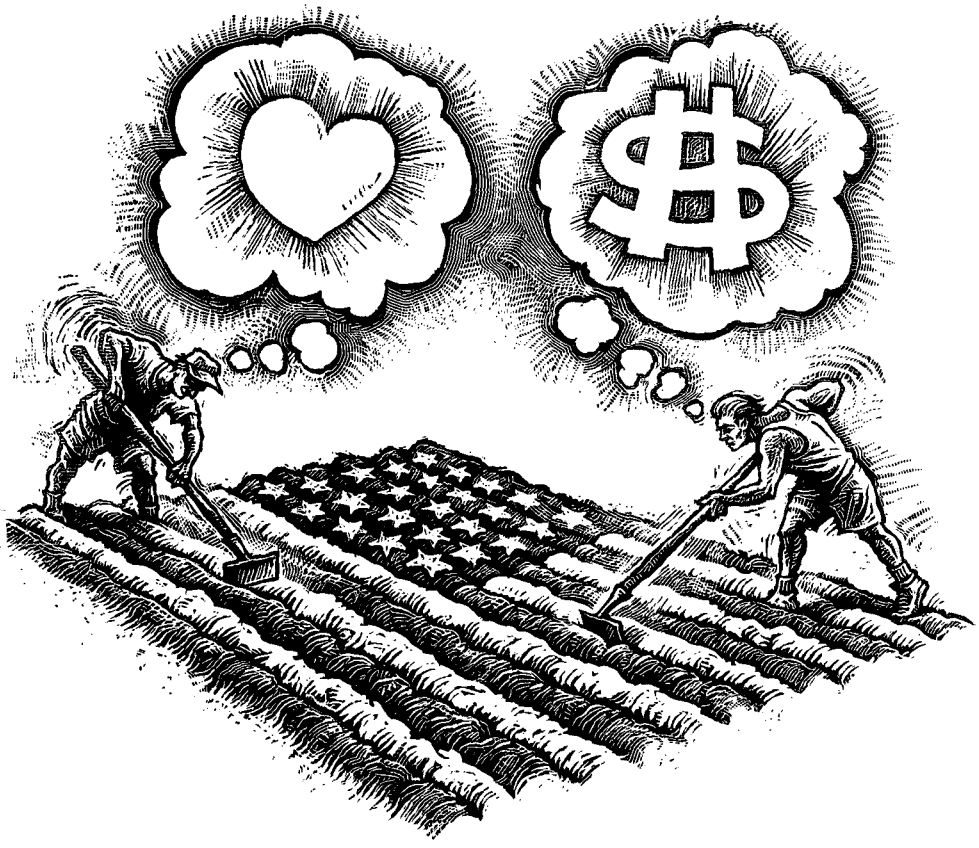

Illustration by Phil Foster

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flooded with good people who wanted to help build houses but didn't have enough full-time crew leaders to organize the volunteers. They selected AmeriCorps applicants who they thought might help. These full-time AmeriCorps members dramatically increased the number and effectiveness of the unpaid volunteers. In Miami, for instance, two dozen Habitat-AmeriCorps members coordinated, organized, trained, and worked alongside about 5,000 unpaid volunteers, who together built 50 homes in a little more than a year.

Now Fuller is a fan. "As AmeriCorps members gain in construction skill," he says, "our affiliates are able to expand the number of occasional volunteers through increased capacity to supervise and manage volunteers. We at Habitat for Humanity feel privileged and honored to have AmeriCorps people with us, and we want more of them."

Habitat's experience is instructive, not only because it is Newt Gingrich's favorite charity, but because it is a faith-based organization that did not have to alter its spiritual mission to make use of AmeriCorps members. This has been the experience of all the religious groups—from the nuns of the Notre Dame de Namur mission to the Greater Dallas Community Churches—that have brought on AmeriCorps members. The reason for their confidence is simple: *they* choose the AmeriCorps members, *they* train them, and if they're not working out, *they* send them home.

The Habitat story is not unusual. One independent study has found that each AmeriCorps member has "leveraged" 12 unstipended volunteers. It was a recognition that volunteer groups need a cadre of full-time people to organize volunteers that led George Romney to refer to full-time stipended service and unpaid volunteers as the "twin engines of service."

Even if one accepts the idea that volunteers need to be organized, why not just give the money to the nonprofit to hire its own full-time staff person? Because charities are quite capable of becoming bureaucratic. We need an infusion of people who plan to work only a year or two and have not, therefore, developed a careerist mindset. Besides, AmeriCorps members are much cheaper than full-time staff.

Service programs also provide a nonbureaucratic alternative to traditional government. One of the reasons the Peace Corps has enjoyed bipartisan support is that the money funds volunteers directly. Someday conservatives will view domestic national service as the antidote to bureaucracy.

Consider what AmeriCorps members have accomplished in rural, impoverished Simpson County, Kentucky. Over nine months of service in 1995, 122 second-graders served by 25 AmeriCorps members saw their reading comprehension scores improve by more than three grade levels. Thirty-seven percent improved by four or more grade levels. The reasons for success are quite simple. AmeriCorps volunteers can develop intense, one-on-one tutoring relationships and become familiar with the academic and emotional problems of the child. Just as important, AmeriCorps members visit each student's home every other week to show parents their child's classroom materials and suggest ways for them to help. Parental involvement has increased dramatically. Would this have happened if the federal government had given the grant to the state education agency?

Simply put, the nonprofits that use AmeriCorps members can provide services more efficiently, humanely, and cost-effectively than government can.

There has been a great deal of confusion about the costs of AmeriCorps. The standard AmeriCorps living allowance is $7,945—about $160 a week—of which $6,700 comes from the federal government. Those members with no health insurance also get a health plan valued at $1,200. So direct compensation is just more than $9,000. If they finish a year of service, they get a $4,725 scholarship.

On top of that, the Corporation for National Service gives grants to local programs to help manage the AmeriCorps members. If the program builds low-income housing, that might include the cost of supplies. If the program establishes crew-based corps, that might include the cost of supervising them. If the corps helps a disaster-struck area, this would include travel costs. Then there are the administrative costs, which are distributed between the headquarters staff and the governor-appointed state commissions that distribute much of the money. The total cost to the Corporation per AmeriCorps member averages $18,800.

Programs are encouraged to raise outside money to supplement that provided by the federal government. Indeed, they can choose to add extra training, supplies, or supervision if they feel that enriches the quality—but only if they raise the money from somewhere else.

At first blush, $18,000 "per corps member" sounds like a lot of money. But think about it. This is direct compensation plus all the other costs associated with the program. If you used the same calculus for Microsoft Corp.—the total budget divided by the number of employees—the average "cost per employee" would be about $150,000.

It's easy to see that this methodology has lim-

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ited value, for it doesn't tell what you are getting for your money. We know what "benefit" or "product" the Microsoft investment produces. The truth is $18,000 could be a lousy deal—or a real bargain—depending on what the AmeriCorps members do.

AmeriCorps members help solve problems. According to partial results from a study by Aguirre Associates, an independent consulting firm, 1,353 AmeriCorps members in 12 states restored 24 beaches, enhanced 338 miles of river banks, planted 200,000 trees, constructed 440 dams, and cleaned up 139 neighborhoods. In all, they estimated these Corps members working on environmental issues in those states "affected the lives" of 469,000 people.

Nonprofits that use AmeriCorps members can provide services more humanely and cost-effectively than government.

Three separate independent evaluations of the cost-benefit ratio of the program predict measurable returns between $1.54 and $2.60 for every AmeriCorps dollar invested. Each study concluded that AmeriCorps's full value is understated because the benefits of safer streets, better schools, stronger communities, and more active citizens are difficult to quantify and not seen immediately. The high return is part of the reason that more than 600 companies—from Microsoft to G.E. to local grocers—have supported local AmeriCorps programs. Stanley Litow, an officer of the IBM International Foundation, summed up his company's satisfaction by stating, "IBM expects a return on investment, and it bases its funding decisions on demonstrable results. . . . This program works."

Consider a program called L.A. Vets, which helps homeless Vietnam veterans become sober and independent. This nonprofit, established with the help of groups like the Disabled American Veterans, runs a 210-bed transitional home that provides 24-hour-a-day support, counseling, and job placement. Program managers conduct drug-testing regularly and expel those who flunk, a tough-love policy beyond the capacity of government bureaucracies. They require the veterans to maintain Westside Residence and pay $235 in rent, a demand that is both cost-effective and therapeutic. AmeriCorps didn't create this program but the 11 corps members at the Westside Residence, according to L.A. Vets' founders, have enabled them to start small businesses staffed by the veterans, stock a library, and make effective use of outside volunteers—including employees of a local computer business who teach the veterans how to repair computers. AmeriCorps members, in other words, have helped veterans become independent of government aid. As of this spring, only about one-quarter of the vets who moved in a year ago were back on the street. One-quarter were in treatment programs and half remained in transitional or independent housing, more sober and hopeful than they've been in years. And it's a good deal for taxpayers. The program has helped move more than 200 veterans out of veterans hospitals, where they would have cost the government $20,000 per year each.

About two-thirds of AmeriCorps projects address the problems of the young. AmeriCorps members tutor, operate after-school programs, work with gangs to reduce violence, create safe havens and safe corridors, and organize students to volunteer. Our record in these areas is one reason Governor Pete Wilson turned to the California Commission on Community Service to help reach his goal of providing at-risk youth in California with 250,000 mentors by the year 2000.

AmeriCorps changes those who perform the service. Full-time service, whether in AmeriCorps or in the armed forces, is a rite of passage that helps create well-rounded adults and citizens. They are expected to be resourceful and show leadership. On a more mundane level, they might learn practical skills—how to build a floor level, how to calm a crowd in an emergency, how to lead a team, or even how to show up on time.

For low-income youth, service provides a different experience than traditional government make-work jobs or training programs. AmeriCorps implicitly accepts conservative arguments against indiscriminate aid to the poor. All major religions teach that it is more blessed to give than receive. This is not only a moral instruction but a statement about human psychology: If you treat someone as a dependent, they will view themselves as such. Low-income citizens, who make up about a quarter of AmeriCorps volunteers, are earning a government benefit by serving, instead of being served. The principle was illustrated by a young high-school dropout, who left a street gang to join the Philadelphia Youth Service Corps. "Look, all my life people had been coming to help me," he said. "For the first time, this Corps asked me to do some good."

AmeriCorps teaches the right values. AmeriCorps challenges young people to give something to their community and country. It teaches them, in the words of William Buckley, to have "gratitude" for being given so much. It instills core values of hard work, discipline, and

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teamwork that make young people not only more productive workers but also better citizens.

AmeriCorps combats balkanization. By bringing people of different backgrounds together, AmeriCorps can combat ethnic and social fragmentation. Members who come to AmeriCorps from college quickly realize that the separatism they learned on campus has to be replaced by teamwork. Here again, the goal is to replicate some of the successes of the military. The World War II draft was the nation's most effective class-mixing institution. The modern army is the most effective race-mixing institution. Because they are so focused on staying alive or achieving a military objective, soldiers inevitably have to focus on individual characteristics rather than group traits. National service can be the most effective means we have for dealing with our nation's racial problems. National service may ultimately replace affirmative action as the primary means for bridging the racial divide.

AmeriCorps expands educational opportunity. This is often cited as the main benefit of AmeriCorps, but it really doesn't make sense to spend $18,000 per member if the only benefit is extra college aid. However, the education award is proving to be an effective way of drawing people into service. And the AmeriCorps experience expands educational opportunity in a more subtle way—by raising the aspirations of those who serve. We have seen many individuals who decided to go to college because their service convinced them that they were capable of greater things. Many of them in turn impart this sense of broad horizons to elementary or high-school students they tutor.

Some conservatives have argued that even if AmeriCorps does worthwhile things now, it will inevitably evolve into a bloated bureaucracy that smothers local initiative. This is the strongest argument against AmeriCorps. Many an enterprise, public and private, that started out lean and flexible eventually became ossified.

AmeriCorps, though, will likely improve, not worsen, because of its basic structure. It is locally based and relies on a competitive grantmaking process. Two-thirds of the money goes directly to state commissions, which choose among competitive proposals from local nonprofit groups.

AmeriCorps is nonpartisan. By law, the state commissions comprise an equal number of Democrats and Republicans, appointed by governors—three-fifths of whom are currently Republicans. AmeriCorps supporters must acknowledge that the success of this program stems in no small part from the leadership of some Republican governors. And those who dislike this program must also recognize that "Bill Clinton's pet project," as it is so often called, is being shaped in large part by Republicans.

We at the Corporation have been willing to learn. The traditional government posture—cover up problems as quickly as possible—may work for a while, but it does not make for good programs. Among our mistakes:

We have taken too long to switch from an old-style government accounting system to a more rigorous, private-sector model. As a result, our books were recently found "unauditable" using the new accounting standards. We are now bringing in outside financial experts to make the Corporation a model of government financial accountability.

Habitat for Humanity did not have to alter its spiritual mission to make use of AmeriCorps members.

We funded a grant to Acorn Housing Corp., which is closely associated with an advocacy agenda. When we found out that Acorn had crossed the line into political advocacy, we pulled the plug. (Among our 400 programs and 1,200 sites we have found only a handful that have engaged in political advocacy.)

We saw that some of our programs were spending too much money on management and overhead. So, we have told AmeriCorps's national and state grantees with above average costs that they must cut costs by 10 percent. And as part of our cost-cutting agreement with Senator Charles Grassley of Iowa, we've committed to specific average cost targets—$17,000 per member next year, $16,000 the next, and $15,000 in 1999.

In our first years, the programs raised $41 million from the private sector—$9 million more than the authorizing legislation required from all nonfederal sources—but some programs were relying too heavily on school districts, police departments, and other units of local government. So this year, we have required *all* of our programs to raise some money from the private sector.

Despite our efforts to make all our programs models of excellence, some did not succeed. So the Corporation for National Service or the state commissions stopped funding them. Fifty of the first-year AmeriCorps programs were not renewed—15 percent of the total. We realize that such a statistic can be used against us by our opponents. However, since the difference between business and government is the willingness to correct mistakes, this is probably the most businesslike thing we have done.

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Having argued the substance of national service, I would like to close on a political note. House Republicans last year put themselves in an awkward position on AmeriCorps. They placed themselves on the wrong side of their own ideology, and played right into the old Democratic argument that Republicans are heartless and uninterested in solving social problems.

Republicans need not compound the error by giving this issue to Democrats. Voters do not automatically associate civilian service with Democrats. If Republicans embrace it, and put on their own imprint, people will look back 10 years from now and say AmeriCorps was a program that Democrats created and Republicans improved. Republicans could then be known as tough *and* compassionate, skeptical *and* wise. And along the way, Republicans will have truly helped transform the country from one that relies on government to solve problems to one that relies on citizen service.

***Harris Wofford**, a former Democratic senator from Pennsylvania, is the CEO of the Corporation for National Service. **Steven Waldman** is his senior advisor for policy, planning, and evaluation. He is the author of* The Bill, *a book about AmeriCorps.*

National Service— or Government Service?

by Doug Bandow

Service has a long and venerable history in the U.S., and it remains strong today. Three-quarters of American households give to charity. About 90 million adults volunteer; the value of their time has been estimated by the Independent Sector at nearly $200 billion.

Impressive as this is, it isn't enough to meet all of the pressing human needs that face our society. For example, Harris Wofford and Steven Waldman worry that the entry of women into the work force will reduce the number of volunteers. Hence, in their view, the need for a government program like the Corporation for National Service.

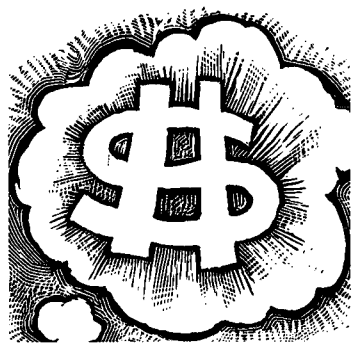
The desire to give Uncle Sam a senior management position in the service business goes back at least a century, to *Looking Backward*, a novel by lawyer and journalist Edward Bellamy. He envisioned compulsory service for all men and women between the ages of 21 and 45, resulting in a peaceful and prosperous utopia. *Looking Backward* was the best-selling book of its time and inspired the establishment of some 165 Bellamy clubs to push his egalitarian social system.

Two decades later, William James advocated the "moral equivalent of war," in which all young men would be required to work for the community. He argued that "the martial virtues, although originally gained by the race through war, are absolute and permanent human goods," and that national service could instill those same values in peacetime.

Most national service advocates today eschew such far-reaching utopian visions of social transformation. Nevertheless, the desire to create the good society through service lives on. Some advocates have seen national service as a means to provide training and employment, to encourage social equality, to promote civic-mindedness, or to expand access to college. Margaret Mead even saw it as a way to help liberate children from their parents. The legislative process always shrank such grandiose proposals into much more limited programs, such as the Peace Corps and, in 1993, the National and Community Service Trust Act, which established the Corporation for National and Community Service. But many of the grander goals remain—and are expressed by Wofford and Waldman: transforming participants, teaching values, combating balkanization, and expanding educational opportunity.

Thus, the heritage of national service—this desire for government to promote ends other than service—is critical to understanding today's program and recognizing the pitfalls of government involvement. When we evaluate the Corporation and the thousands of AmeriCorps members, we must ask: service to whom and organized by whom?

Americans have worked in their communities since the nation's founding. Businesses, churches, and schools all actively help organize their members' efforts. Service in America is so vital because it is decentralized and privately organized, addresses perceived needs, and grows out of people's sense of duty and compassion. Any federal service program must be judged by whether it is consistent with this vision of volunteer service. Wofford and Waldman think yes. I'm less sanguine.



The mandatory variants of service obviously do not share this vision. In fact, the explicit goal of advocates of mandatory service programs was (and remains) to create a duty to the state rather than to the supposed beneficiaries of service. Moreover, service is to fit into a larger social plan implemented and enforced by government.

Of course, AmeriCorps is not mandatory, and Wofford and Waldman amass an impressive list of testimonials from private groups that welcome the Corporation's support. But, no one should be surprised that volunteer organizations might wel-

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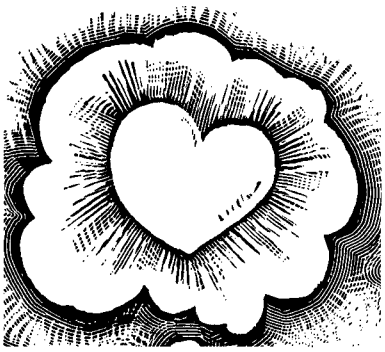
come financial assistance and "free" help. Washington's funds, however, could prove almost as powerful as its mandates in reshaping the independent sector. Some voluntary organizations recognize the danger. David King of the Ohio–West Virginia YMCA has warned: "The national service movement and the National Corporation are not about encouraging volunteering or community service. The national service movement is about institutionalizing federal funding for national and community service. It is about changing the language and understanding of service to eliminate the words 'volunteer' and 'community service' and in their place implant the idea that service is something paid for by the government."

King's fears are well founded. The history of the welfare state is the history of public enterprise pushing out private organization. The impact was largely unintentional, but natural and inevitable. Higher taxes left individuals with less money to give; government's assumption of responsibility for providing welfare shriveled the perceived duty of individuals to respond to their neighbors' needs; and the availability of public programs gave recipients an alternative to private assistance, one which did not challenge recipients to reform their destructive behavior.

The Corporation, despite the good intentions of people like Wofford and Waldman, risks doing the same thing to philanthropy. A federal "service" program risks teaching Americans that the duty of giving, and the job of deciding who is worthy to receive charity, belongs to government and not average people throughout society. At some point service to society could become widely equated with work for government.



Glimmerings of this problem have already surfaced. For instance, the Corporation treats "public" service as inherently better than private service. Service, however, comes in many forms. Being paid by the government to shelve books in a library, whether as an employee or as an AmeriCorps member, is no more laudable or valuable than being paid by Crown Books to stock bookshelves in a bookstore. A host of private-sector jobs provide enormous public benefits—consider healthcare professionals, medical and scientific researchers, entrepreneurs, inventors, and artists. Many of these people earn less than they could in alternative work; they have chosen to serve in their own way. Yet government programs that equate public employment with service to society effectively denigrate service through private employment.

This public-sector bias is reflected in the fact that 2,800 of the first 20,000 AmeriCorps participants were assigned to federal agencies. For instance, the Department of the Interior used AmeriCorps workers to "update geological and hydrological information for the U.S. Geological Survey" and restore wetlands and wildlife habitat. Jobs like these are respectable, but they resemble traditional government employment rather than "service." While AmeriCorps participants may do good work as government employees, such activities are not likely to promote volunteerism around the country.

A more subtle problem is the likely long-term effect of federal funding on the volunteer groups and those who normally support volunteer groups. It is, in the abstract, hard to criticize grants to organizations like Habitat for Humanity (which until now refused to accept government funding), Big Brothers/Big Sisters, and the Red Cross. These groups do good work and money given to them is likely to be well spent.

Who, however, should do the giving? It is certainly simpler for the IRS to empty pockets nationwide and hand a bit of the tax haul to the Corporation, which, in turn, gives it to charity. But the right way is for individuals to send their money directly to deserving groups. That Habitat for Humanity could use more full-time employees to supervise its ample private volunteers is understandable; that it should turn to the government for the resources to hire those volunteers is not.

Indeed, at its most basic level, real charity doesn't mean giving away someone else's money. As Marvin Olasky has pointed out, compassion once meant to "suffer with." Over time it came to mean writing a check. Now it seems to be equated with making someone else write a check. At least public welfare programs are theoretically accountable to taxpayers for their activities. But collecting taxes for private charities, especially those with philosophical or theological viewpoints that may conflict with those of many taxpayers, is especially dubious.

Nor is dependence on government healthy for private philanthropic groups. Although they get to choose and train volunteers funded by the Corporation, it seems inevitable that government will end up favoring some activities and disfavoring others. Such preferences may not be nefarious, but groups will be tempted to adjust their mission to become eligible for federal funding.

Even if the Corporation eschews the natural temptation to meddle, the behavior of recipients is likely to change. Groups will be tempted to shift their fundraising from private appeals to "public education" and formal lobbying. After

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all, government checks tend to be much larger and cheaper to obtain than private donations.

Wofford and Waldman contend that government funding will prevent private groups from becoming bureaucratic by furnishing them with short-term volunteers, who won't develop "a careerist mindset." It's not clear why career volunteers would be a problem. In fact, some problems are better met by experienced volunteers. Surely volunteer groups, if they found careerism to be a problem, could, if adequately funded, hire precisely the sort of people who now join AmeriCorps. Money does not have to be funneled through government to ensure that private groups receive "new energy," as Wofford and Waldman put it.

Moreover, government's growing role in funding private groups, however worthy, is likely to encourage people to further abdicate their civic responsibilities. If we are serious about strengthening civil society and reviving a sense of individual duty to help those in need, we must emphasize contributing as well as volunteering. People will feel less pressure to volunteer time and money if the government not only provides public welfare programs but funds charitable groups. Wofford and Waldman cite private support for local AmeriCorps programs as evidence of their value. But AmeriCorps isn't necessary for IBM, G.E., Microsoft, and local grocers to support service programs. Private-sector funding should preempt, not follow, government involvement.

Boosting contributions will address one of the problems that Wofford and Waldman mention: the increase in women who have entered the work force and therefore have less time to volunteer. If they are working, they should have more money to contribute, and they should be encouraged to do so, thereby helping to fund full-time volunteers.

In fact, thoughtfully choosing which charities to support, and monitoring their activities are themselves important forms of volunteerism. Sending money off to Washington for distribution to private groups benefits the recipients, but no one else. By contrast, the sinews of community grow stronger when people stay informed, give voluntarily, and get involved. As we attempt to shrink the welfare state, getting more people to give more and to take more time considering where to give should be one of our highest priorities.

Finally, AmeriCorps may have undesirable consequences on volunteers. Undoubtedly, many volunteers paid by the government really believe in what they are doing. But the Corporation has turned service into a job, one that, counting the tax-free voucher, pays more than other entry-level employment. Some participants have privately admitted that they see national service as a remunerative job option, not a unique opportunity to help the community. Indeed, much of the president's pitch during the campaign was framed in terms of naked self-interest: earning credit toward college tuition. There's nothing wrong with joining AmeriCorps to do so, of course. But doing so really isn't more noble than, say, pumping gas for the same reason.

Indeed, government-funded service plays into what some national-service proponents have denounced as an entitlement mentality—the idea that, for instance, students have a right to a taxpayer-paid education. Some advocates of national service have rightly asked: Why should middle-class young people be able to force poor taxpayers to help put them through school? But public "service" jobs sweetened with a salary and an educational grant are no solution: they merely transform the kind of employment that a young person seeks to help cover his educational expenses. Some AmeriCorps volunteers do sacrifice, but there is no real sacrifice involved in, say, informing people about the availability of Federal Emergency Management Agency service centers, maintaining vehicles, surveying residents about recreational interests, cutting vegetation, and changing light bulbs in dilapidated schools—all activities funded by the Corporation. In contrast, consider the sort of tasks envisioned by William James: young laborers would be sent off "to coal and iron mines, to freight trains, to fishing fleets in December."

The national-service movement implants the idea that community service is something paid for by government.

The real solution to the entitlement mentality is not to say that students are entitled to taxpayer aid as long as they work for the government for a year or two, but to rethink who deserves the subsidy. We also need to explore how federal educational assistance may have actually made it harder for students to afford college by fueling tuition hikes (the schools, of course, are the ultimate beneficiaries of most student aid). And we have to address the host of other "entitlements" that riddle the federal budget and sap people's independence.

Finally, there is the more practical question as to whether taxpayers are likely to get their money's worth from the service provided by AmeriCorps members. Wofford and Waldman

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cite impressive statistics about trees planted and beaches restored, and there's no doubt that much good work has and will be done by AmeriCorps volunteers. But there is no guarantee that taxpayer-funded "service" will be worth its cost.

Consider the opportunity costs of national service. "Public service" has a nice ring to it, but a dollar going to national service will not necessarily yield more benefits than an additional dollar spent on medical research, technological innovation, business investment, or any number of other private and public purposes. Nor is hiring, say, a potential doctor to spend a year surveying residents, handling paperwork, or replacing light bulbs necessarily a good deal—in terms of economics or service.

Unfortunately, some waste is almost inevitable. Local organizations are not likely to use essentially "free" labor from the federal government as efficiently as if they had to cover the costs themselves, because staff members will be tempted to assign work they prefer not to do themselves to the subsidized outsiders. For example, in Orange County, California, the Civic Center Barrio Housing Corp. used AmeriCorps personnel to solicit donations and handle paperwork. Corporation critics have, in fact, generated their own roll of waste to counter Wofford and Waldman's list of successes.

Another potentially important opportunity cost is the diversion of bright men and women from the military. The end of the Cold War has sharply cut recruiting requirements, but it has also reduced the perceived national need. As a result, the armed forces have had greater difficulty in attracting quality recruits. Yet various programs of educational benefits have always been an important vehicle for drawing college-capable youth into the military. Providing similar benefits for civilian service is likely to hinder recruiting for what remains the most fundamental form of national service—defending the nation. Surveys have found that a majority of potential recruits would consider joining AmeriCorps rather than the armed forces because they see it as a better way to gain educational assistance.

If AmeriCorps is not the answer, what is? First, government barriers in the way of private individuals and groups who want to help should be torn down. Minimum-wage laws effectively forbid the hiring of dedicated but unskilled people; every increase makes this problem worse. Restrictions on paratransit operations limit private transportation for the disabled. Regulations also hinder other forms of volunteerism. Unnecessary health department restrictions prevent restaurants in Los Angeles and elsewhere from donating food to the hungry, for instance. In short, in many cases important needs are unmet precisely because of perverse government policy.

Second, leaders throughout society, from lawmakers to clerics to philanthropists to corporate presidents, need to emphasize that the ultimate responsibility to help those in need lies with individuals, families, and communities, not government. They need to create a more traditional sense of compassion, the idea that charity requires personal commitment—both in volunteering time and exercising careful stewardship over charitable contributions. This requires highlighting the needs of the disadvantaged and groups seeking to help the disadvantaged, and emphasizing that people can no longer act as if they "gave at the office" through government.

Third, policymakers need to consider tax incentives, particularly tax credits for charitable donations, to encourage people to volunteer their money. A goal of $500 million in new contributions—a mere $2 a person and more than now spent by the Corporation—might be a reasonable start.

Finally, to the extent that serious social problems remain, government should use narrowly targeted responses to meet the most serious problems. That is, it would be better to find a way to attract several thousand people to help care for the terminally ill than to lump that task in with teaching, planting trees, changing light bulbs, administrative work, and scores of other jobs to be solved by a force of tens or hundreds of thousands.

AmeriCorps was created with the best of intentions. But the Corporation for National Service cannot escape its statist heritage: it promotes service, but shifts the center of gravity in the volunteer community from civil to political society. What we need instead is a renewed commitment to individual service. People, in community with one another, need to help meet the many serious social problems that beset us. But private activism needs neither oversight nor subsidy from Uncle Sam. Some of the volunteerism can be part-time and some full-time; some can take place within the family, some within churches, and some within civic and community groups. Some may occur through profit-making ventures.

The point is, there is no predetermined definition of service, pattern of appropriate involvement, set of "needs" to be met or tasks to be fulfilled. America's strength is its combination of humanitarian impulses, private association, and diversity. We need service, not "national service."

Doug Bandow *is a senior fellow at the Cato Institute and the author of several books, including* The Politics of Envy: Statism as Theology *(Transaction).*

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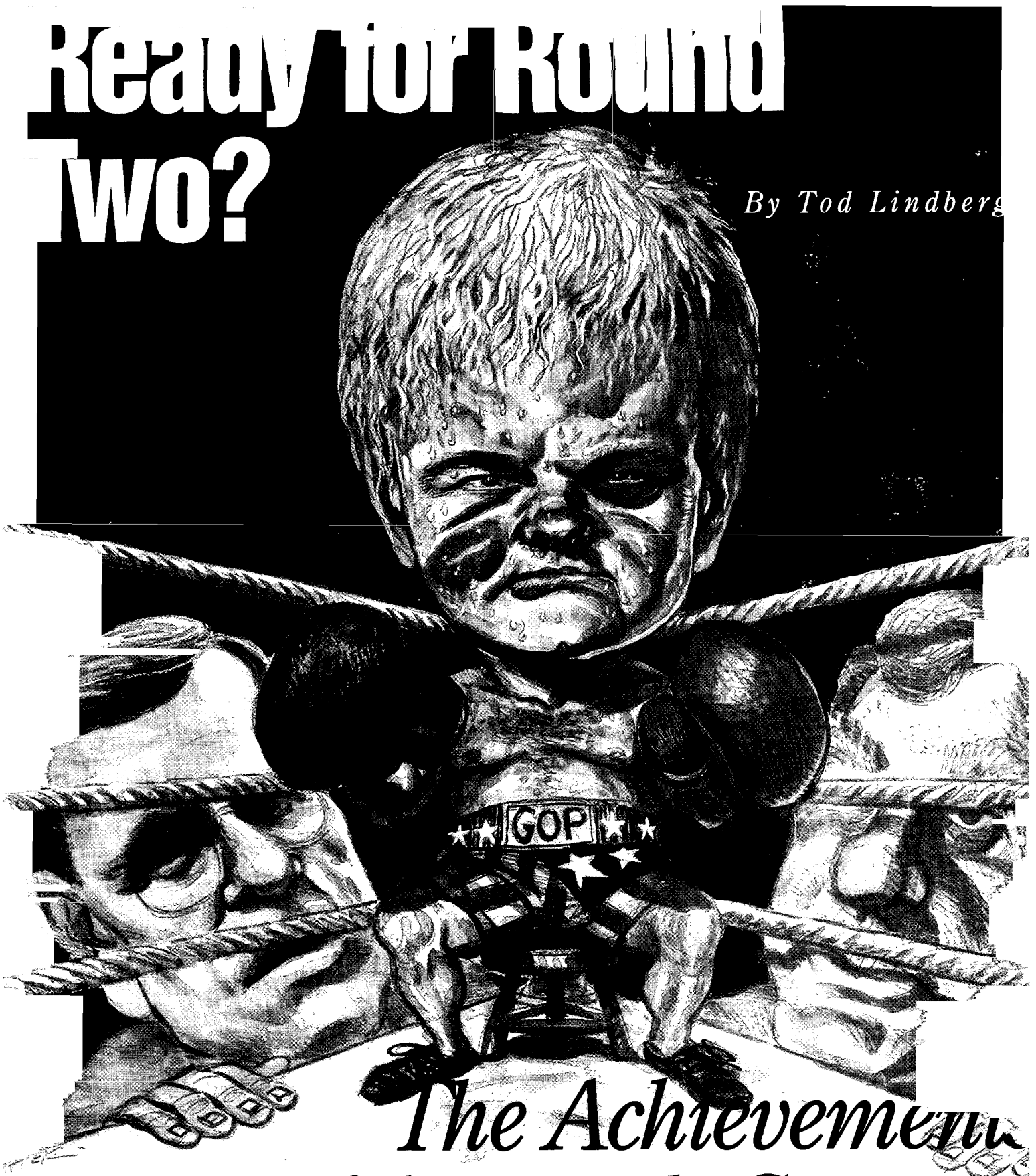
Ready for Round Two?

By Tod Lindberg



The Achievements of the 104th Congress

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Of all the passions that distort one's view of politics, the greatest, I think, is the desire for closure, the yearning for some golden moment at which it can be said, "Well, that's the end of that." The jury announcing its verdict, the emissaries of a defeated power signing the papers of unconditional surrender, the poker player beating a full house with four of a kind—decisive and final.

Perhaps it's understandable. Our politics does have built-in cycles with closure of a sort, namely, elections. Every four years, we have an opportunity to elect a new president or affirm the tenure of the one we have; every two years, we have a new Congress. And the outcome of these elections is rarely ambiguous. Candidate A wins or loses. The House has this many Republicans and that many Democrats. Moreover, the legislative process itself has various endpoints: the moments after the committee report and the floor vote and the conference and the bill-signing ceremony in the Rose Garden, just as the civics textbooks say.

The 104th Congress has learned that in politics there are no permanent victories—that the fat lady never sings.

But even here, closure in politics is overblown. In politics, little is ever settled once and for all. The day after the election is the first day of the next election cycle. So you got a bill passed? Fine. Now an army of bureaucrats will begin writing the regulations and other means of enforcing it; the courts will begin pondering its meaning; the lawmakers themselves, aided by an army of lobbyists and other interested parties, will prepare for the next go-round. Politics ebbs and flows. Victory and defeat are never permanent. "Endism"—the yearning for closure—often amounts to substituting one's political fantasies for reality.

The essential fact of the 104th Congress is that, as the first GOP Congress in 40 years, it did not live up to the expectations it helped create. Many of its members rode into town two years ago promising nothing less than "revolution." But the budget is not balanced, nor is there a constitutional amendment requiring that it be balanced. There has been no tax relief for families with children, no cut in the capital-gains tax rate, no expanded Individual Retirement Accounts. Nor have we seen fundamental reform in Medicaid for the poor and Medicare for the elderly: Most of the vast entitlement apparatus stands untouched. Broad regulatory relief remains elusive.

Was the 104th Congress, then, a failure? The position of the Democratic Party sounds like this: The Republicans vastly misinterpreted the results of the 1994 elections that brought them to power. They claimed a broad mandate for change where none existed. Moreover, they were never candid about the specifics of the changes they intended to make. Once the details began to emerge, in the Democratic view, the American people recoiled from the Republicans' extremist positions. Popular opinion turned against this new Congress and its living embodiment, House Speaker Newt Gingrich. Republican expectations that their party would sweep the 1995 off-year elections turned out to be wrong. President Clinton stood up to the GOP legislative blackmail represented by two shutdowns of the federal government. The people responded by supporting him in opinion polls. The Republicans, reeling and desperate, finally gave up. Democrats prepared to take their case to the people in the fall elections, with an excellent chance, they say, of retaining the White House and regaining the Congress, as people think more about what GOP bombthrowers have been trying to do to American society and government.

This telling is also the version offered by the establishment media. I will leave it to future historians to determine whether the Democratic line and the establishment media's analysis coincide so well because they simply reflect the truth of the situation, or for some other reason. You can also hear this interpretation in certain Republican circles, such as when Al D'Amato launched his celebrated screed against Gingrich, his Contract, and GOP extremism in the spring of 1996. Boiled down, the theme of this argument is: game over. Republicans had their chance, they blew it, and that's the end of that.

But, in fact, it's not the end of that. Before too long, Democrats will likely be reminded of

Illustration by Alexander Hunter

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the fallacy of endism. Even if Republicans lose this November, they are not going to fold their tent and go away. Novels may have a beginning, a middle, and an end, but politics is a perpetual middle.

Republicans recently suffered their own brutal lesson in the fallacy of endism. Weren't the Democrats finished, kaput, toast, less than two years ago? Wasn't the Democratic president trying to persuade everybody (including, it seemed, himself) of his own relevance? Wasn't the juggernaut of popular opinion that swept the GOP in and the Democrats out going to overpower whatever feeble resistance might be offered by a weak, rudderless, scandal-plagued administration? And wasn't this all merely prologue to the completion of the, well, Revolution—in 1996, when Americans would surely elect a Republican to the White House and all good things would be in legislative reach? And doesn't that all seem a bit naive just now?

Surely it was unrealistic to expect a true revolution as long as President Clinton occupied the White House, Senate Democrats wielded the power of the filibuster, and House Republicans held only a slim majority. But judged by more modest standards, Republicans in the 104th Congress actually achieved a great deal. And the chief obstacle to the rest of their agenda was Bill Clinton and his veto pen. Didn't get your tax cut? Talk to Clinton. Budget not balanced? Clinton didn't want to balance it. Federal regulators and a legal system still out of control? Clinton vetoed changes. Medicare careening toward insolvency? Been there, vetoed that.

Republicans can also muster a fairly decent list of things they did manage to get through. The biggest one was surely a welfare overhaul in the form of a broad "devolution" of responsibility to the states. This was, in fact, transforming legislation, an end to a federal entitlement program that was for 30 years *the* symbol of the promise and failure of the War on Poverty.

In addition, the president now has a line-item veto, which Democratic Congresses repeatedly refused to give Ronald Reagan. The candidate elected in November will be the first president with the power to use it. Congress also completed a massive revision of telecommunications law, which ought to open up some promising technological vistas and provide more competition in cable, broadcasting, telephone, and information services.

To everyone's surprise, the vast, centralized apparatus of American agricultural policy was significantly reformed in the Freedom to Farm Act. In lieu of the complicated formulas and procedures that determine how much wheat, corn, rice, and cotton—the four major "program crops"—farmers can plant and sell, growers will get a declining subsidy over five years (based on the level of their previous payments from Washington) and freedom to plant crops as they see fit.

Congress overrode a presidential veto of securities-litigation reform designed to protect companies from unreasonable class-action lawsuits when their stock price declines. The antiterrorism bill provided a vehicle for streamlining the use of *habeas corpus* in federal death penalty appeals. And, of course, the national speed limit is history.

The essential fact of the 104th Congress is that it did not live up to the expectations it helped create.

At this writing, there are a couple of other possibilities for significant legislation. Passage of an immigration-reform bill containing sharp restrictions on illegal immigration—but surprisingly unnativist on legal immigrants—seems imminent, and the president is widely expected to sign it. There is also a possibility of legislation designed to make health insurance more portable, including a provision for a small experiment with Medical Savings Accounts. And, ahem, how about that minimum-wage increase?

No, this record doesn't add up to a revolution. It hasn't transformed the policy landscape to resemble maps designed by Republicans. On the other hand, the 104th Congress has nothing to be ashamed of. This is a solid record of legislative achievement. And Republicans are right to say that the achievement would have been much greater had it not been for the president's rather sudden display of backbone, starting in the late fall of 1995.

That resolve may have been precisely the quality Americans wanted to see in a president whose fecklessness had become something of a national joke, and they rewarded him with higher approval ratings. On the other hand, the president did pass up at least one historic opportunity. As Senator John Ashcroft, the freshman Republican from Missouri, has observed, every president goes to bed at night praying that Congress will announce some major entitlement reform the next day. Even modest changes in entitlement programs usually require blue-ribbon commissions to provide political cover. But this Congress offered two—not only welfare reform, which Clinton would go along with only the third time a bill landed on his desk, but also a much more politically tricky Medicare fix. The

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president walked away from Medicare, even though he and his advisers knew the insolvency of the program is certain in the absence of program changes. The White House shamelessly protested the horrific Republican "cuts" in Medicare—make that "gutting," "slashing," and "destroying" Medicare. The opinion polls favored the president. But they would likely have continued to do so even if he had actually chosen to behave constructively. Clinton could have split the rather small difference with Republicans and anointed himself the savior of Medicare—not only from bankruptcy, but also from heartless Republicans eager to slash it to pay for tax cuts for the rich. For the White House, though, relentless counterattack was the order of the day.

Besides welfare reform, the Republican Congress got the president to agree to something truly extraordinary in one other area: discretionary (that is, nonentitlement) spending. This is the part of government determined each year through the appropriations process—the 11 big bills that fund the operations of the government itself, and without which (or some other mechanism agreeable to Congress and the president) we get a shutdown. Clinton vetoed a number of these bills and signed only a couple, but the shutdowns led to the other spending mechanism, the "continuing resolution" that set spending levels for all programs where appropriations bills had gone unsigned. To that measure Clinton attached his signature.

Every year since 1969, spending in the domestic (that is, nonmilitary) discretionary category has increased. (Military spending has had its ups and downs and is now in a sharp decline that has been partially ameliorated by the GOP). That changed in fiscal 1996. The Republican Congress actually did cut spending—not reductions in the rate of increase, not "cuts" against a rising baseline, not "cuts" after adjusting for inflation, but genuine reductions. Domestic discretionary spending was $246 billion in fiscal 1995 and $223 billion in fiscal 1996.

By contrast, the Clinton administration wanted to spend $30 billion more in 1996 than 1995, instead of $17 billion less. The proposed Clinton budget for the year would have yielded a deficit of $211 billion. Current projections from the Congressional Budget Office show a fiscal 1996 deficit of $117 billion. Economic growth that exceeded projections account for some of this difference. But more than half is the result of cuts in domestic discretionary spending.

As Ronald D. Utt of The Heritage Foundation has noted, appropriators achieved these savings in part by eliminating some 200 government programs and scaling back many others. The cynical conventional view of Washington has long held that the closest thing to eternal life in this world is a federal government program. Well, good riddance to the Interstate Commerce Commission and the Pennsylvania Avenue Development Corporation (to say nothing of the welfare entitlement).

The discouraging thing is that this $23 billion in savings came out of a federal budget totaling $1.57 trillion, up (thanks to entitlements) from $1.52 trillion last year. In short, the cuts amounted to less than 1.5 percent of total spending.

And yet this truly was a reversal of a course that had been followed for 26 years. Surely it means something when a Democratic president declares in his State of the Union address that "the era of Big Government is over." Surely, as well, it means something when that same president tacks sharply to the right as he takes his case for re-election to the voters.

This has been the real Republican solace in the face of frustration during the 104th Congress. The terms of the debate have changed, Republicans tell themselves. America is, undeniably, a conservative country now. Democrats recognize that the old-fashioned, liberal, Big Government agenda is now a loser, and they know that to survive politically, they must run as conservatives. They may, for a time, be able to get away with running right and governing left, as Clinton is trying to do. But eventually their own record will catch up with them, and voters will select the real thing rather than the ersatz version.

I think there is much truth to this analysis, but there is something about it that bothers me, and that is its endism. William F. Buckley Jr. once wrote, famously, that the conservative mission is "to stand athwart history, shouting 'Stop!'" I have long thought that the problem with this formulation is that history isn't listening. And now conservatives are erring in the other direction, rushing to the conclusion that they represent the future.

Was it realistic to expect a true revolution with Bill Clinton in the White House, Democrats filibustering in the Senate, and the GOP holding a slim majority in the House?

The spending cuts of fiscal 1996 and the advertised end of the era of Big Government are remarkable achievements. But there is nothing permanent about them, and Republicans are deluding themselves if they think otherwise. It is

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pleasant, in some sense, to think that large forces are at one's back—certainly more pleasant than the experience of swimming upstream, with which conservatives are plenty familiar. And if public-opinion polls mean anything, the electorate is clearly more responsive to conservative proposals for solving problems than to huge new government bureaucracies. Yet this does not spare Republicans the responsibility and drudgery of fighting, fighting, fighting the daily battles of practical politics, against those who would like government to assume even more control over the lives of the American people. The measure of victory is not just the passage of vast, transforming legislation but also the extinguishing of the lights at the Pennsylvania Avenue Development Corporation.

The most compelling problem of practical politics for Republicans is that they are not as popular right now as they imagined they would be. Whether this decline in popularity threatens their hold on Congress, whether the Democrats have really gained at their expense, whether the electorate in 1994 saw its choices for Congress as a choice between national policies, and whether 1996 will also be such an election—these are all questions that will be "settled" in November. In other words, we will argue about them for years.

The biggest achievement of the GOP Congress was ending the federal welfare entitlement.

The question for Republicans is how to rebuild their popularity. To answer that question, Republicans must first understand why their popularity rose and fell in the first place. Republicans often claim that by the end of last year, their message had gotten lost—lost in the obsessive focus on balancing the federal budget within seven years. Republicans took popular support for granted and lost sight of the need to explain why the budget had to be balanced. Some add that the message got lost in a media culture that has never understood the Republican agenda and remains hostile to it. In addition, the Clinton administration lied about what Republicans were actually proposing. The solution, in this analysis, is to figure out better ways of both framing the message and communicating it to the people.

Others have argued that the message was fundamentally flawed from the outset. The supply-side faction of the party, for example, has excoriated the Contract With America for failing to articulate a Reagan-Forbes-Kemp message of hope, growth, and opportunity—and never mind the budget deficit. Still others have said that the message was wrong because it is, as Democrats charged, too extreme. Why make sweeping changes in regulatory policy in areas where most people have come to trust the government—clean water, clean air, and safe food and drugs?

But I think the biggest problem came from the heady sense of victory following the 1994 elections: We win, they lose; the people are with us, the people are against them. And that's the way it is. Republicans in the House worked very hard on a plan for governing if they should find themselves in power. They studied the House's Democratic masters with care, fashioned a strategy for seizing a majority, and crafted a legislative agenda that they believed reflected the wishes of most Americans. When they finally won, they did what they had set out to do. The Senate is a very different place, less a stranger to Republican control but at the same time less susceptible to control altogether. Yet the Republican Senate went along, too.

And then . . . they didn't win it all. They did not get everything or even most of the things they wanted. They faced an opposition that did not always fight fair. And the American electorate, whom they thought they had squarely behind them, turned out not to be. Republicans retreated, they regrouped, they recriminated, they refought the battles they had won and the battles they had lost to try to figure out why. And they returned to fight another day, with this change in strategy and that change in tactics, and they recognized that the pursuit of total victory is dangerous when it comes unmoored from the daily business of democratic politics, which is to keep things moving your way while pleasing people.

The Republicans learned that there is always another day, that this is not a game of chess or a mystery novel, but rather politics, in which nothing is ever settled once and for all and in which the illusion that things are can be your undoing. And that was the greatest accomplishment of the Republicans of the 104th Congress. They learned that in politics there are no permanent victories, that the fat lady never sings. And whether they hang on to Congress in 1996 or return to power in 1998 or later, this wisdom will be essential if they are to govern.

Tod Lindberg *is the editorial page editor of the* Washington Times. *In the Summer 1994 issue of* Policy Review, *he wrote an article anticipating the GOP takeover of Congress that year.*

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"What can government do, if anything, to make sure that the overwhelming majority of American children grow up with a mother and father?" Policy Review *asked a number of family experts across the political spectrum to address this question, considering state and local government as well as the federal government.*

Can Government Save the Family?

By

Rep. Steve Largent

James Dobson

Gov. John Engler

D. James Kennedy

Sen. John Ashcroft

William A. Galston

David Blankenhorn

Dan Quayle

Paul Weyrich

Kay James

Encourage Parental Involvement

Rep. Steve Largent

In the classic movie *King Kong*, the giant ape lifts the tiny heroine into his hairy hands with a puzzled look on his face, as if to say, "She's small and cute, but *now* what do I do with her?" Similarly, what can or should that giant leviathan known as "government" do to provide children with parental guidance? My first thought is the same one I had when I saw the massive Kong delicately hold the fragile heroine: "I hope he doesn't hurt her."

Government should always keep in mind that no one loves children more than their parents. There are many in Washington who believe otherwise, and think that *they* know what's best for your children. The best thing that government can do to ensure children grow up with a mother and father is to recognize that parents—both a mother *and* a father—are fundamental to a child's upbringing in the first place.

Government needs to encourage and solicit—not frustrate—parental involvement in the education of children. In the early 1930s, there were more than 130,000 school boards in the United States. Today, there are fewer than 15,000. We need to encourage parental participation by restoring local school boards for each and every school and empowering them—together with faculty and administrators—to determine educational policies and curricula. We must also enact school choice and voucher plans to give parents more control over their children's education.

Finally, we must stem the tide of divorce, including so-called "no-fault divorce." Nothing harms children more than losing the support and involvement of either parent, a frequent result of divorce. We should give the institution of marriage greater respect and protection. A marriage ought to be difficult to enter and even more difficult to leave. How about requiring a waiting period before every wedding?

We need to acknowledge that government—in any form—can never provide what children need most: love. Only two people are qualified for that—Mom and Dad.

***Steve Largent**, a Republican, represents the 1st District of Oklahoma.*

Revive the "Marriage Culture"

James Dobson

A distressing number of children in this nation will go to bed tonight without the participation of both a mother *and* father in an important family ritual: reading a bedtime story, saying night-

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time prayers, and being tucked in with reassuring goodnight kisses. This experience is more and more often a solo act for one reason: the slow death of a marriage culture. It is being replaced by a culture of divorce and illegitimacy, each of which now exists, for the first time in our nation's history, in equal proportion to their opposites. It is paramount that we re-establish an appreciation of the value and virtue of marriage, both for the individual and society. As recent history shows, this work cannot rest on the ever-expanding shoulders of government (also known to some as "the village").

When Daniel Patrick Moynihan wrote his report on the declining health of the black family in America, few authorities took his warning seriously—except his boss, President Lyndon Johnson. Largely influenced by Moynihan's work, Johnson's "Great Society" swelled a small government bureaucracy of 45 domestic social programs to a leviathan of 435 by the end of his administration. Yet for all this "help," things have only gotten worse since then. What can be done?

There are four obvious imperatives for government. First, it should clearly define marriage as a lifelong commitment between a man and woman. Second, states should reform no-fault divorce laws. Third, government should end our confiscatory tax structure, which undermines the financial stability of families. Our tax policy ought not merely level the playing field for married couples; we should actually *tilt it in their favor.* Fourth, the federal and state governments should reform welfare in order to end current incentives for conceiving children outside of marriage.

But the real recovery of a marriage culture requires tools that the government doesn't possess or even recognize. Our nation needs both a vision for the purpose of marriage and the personal and spiritual resources to build strong unions. These can only be provided by our faith-based institutions, which are divinely commissioned and uniquely gifted to undertake this work. Without this vital contribution, many children will never enjoy the irreplaceable benefits of a home with a mother and a father. Consequently, society will suffer.

James Dobson, *a psychologist, is the founder of Focus on the Family, in Colorado Springs, Colorado.*

Acknowledge the Limits of Government

Gov. John Engler

Government policy should follow the Hippocratic Oath. Government policies should in no way discourage the formation and preservation of families, nor add momentum to the powerful centrifugal forces breaking our families apart. Here are three reforms at the top of my list:

Tax reform. Government must reduce the tax burden on families and eliminate the marriage penalty in the tax code. According to the Bureau of Labor Statistics, real average weekly wages are 5.5 percent lower today than during the Reagan years. As a result, many families are in debt. Spouses are entering the work force to help make ends meet, and they raise total family income by about one-third. Yet these families must also pay almost 28 percent of their income to the federal government. In effect, mothers are having to work just to pay off Washington.

It is useful to put the burden on our families in historical perspective. In 1954, the last year Republicans controlled the White House and both houses of Congress, federal taxes amounted to less than the tithe to your local church—8 percent of total family income. Often one parent chose not to work. Today, however, few families are free to make that choice, and government tax policy has burdened them unnecessarily.

Welfare Reform. Remember the stories about couples splitting up so welfare benefits would keep coming in? That was due to the "100-hour rule," which kept intact couples from working more than 100 hours per month. Unfortunately, it's still federal law. Michigan was one of the first states to apply for and receive a waiver from the federal government to exempt two-parent families from this destructive policy. The 100-hour rule is just one example of where federal welfare policy is wrong. Until states are free to undertake far-reaching reform, the system will continue to fail families.

Divorce reform. Because of the terrible impact of easy divorce on women and children, state lawmakers are taking a second look at their no-fault laws. In Michigan, Iowa, Pennsylvania, and a half-dozen other states, Republicans and Democrats alike are seeking to make the decision to get divorced a more considered one.

Tax policy ought not merely to level the playing field for married couples; we should tilt it in their favor.
—James Dobson

A national leader in turning back no-fault divorce has been Jessie Dalman, a Michigan state legislator. She has sponsored 12 bills that would deny a divorce if only one spouse wants it—unless that spouse could prove infidelity, desertion, alcoholism, physical or mental abuse, or other serious problems. Her legislation would also require participation in a pre-divorce pro-

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gram for all parties in an uncontested divorce where young children are involved.

In addition, Dalman's legislation seeks to reduce the number of impulsive marriages by requiring a 30-day waiting period and encouraging every couple to receive counseling before their wedding day. A state marriage license would cost $20 for those who get counseling, $100 for those who do not.

It is essential that our society rethink the no-fault revolution. Over the past quarter-century, easy divorce laws have helped tear apart American families. As a society, it is time to refocus more on the needs of children and less on the desires of parents. We must make it harder for children to be victimized by a no-fault system that gives all the legal clout to the party that wants to break the marriage.

It is essential that Washington acknowledge the limits of government. It never has been, nor will it ever be, a substitute for the family. Family renewal must, in the end, come from within the family. Despite well-publicized divorce statistics, I am hopeful that our nation can slow down the forces of disintegration. The brisk sales of works like *The Book of Virtues,* the recognition that "Dan Quayle was right," the growing impact of groups like Focus on the Family and Promise Keepers—all these signs give me encouragement.

***John Engler** is the Republican governor of Michigan.*

Praise the Two-Parent Family

D. James Kennedy

Government's first and most immediate task is to stop undermining the two-parent family. Whatever government subsidizes, it will be inundated with. In the 1930s, when government subsidized pigs, the Midwest was up to its hips in pigs. Today, we are subsidizing illegitimate children, and the result is a social catastrophe.

Government ought to dismantle every welfare program that promotes single-parent families. The litmus test is simple: Any program that encourages out-of-wedlock births and supplants fathers should be eliminated. Next, government should aggressively *promote* two-parent families. The Bible says that rulers have been established "for the praise of those who do good" (1 Peter 2:14, NKJV). Here are a few ways government can "praise" the two-parent family:

Make divorce more difficult to obtain. Reduce the tax burden on the family. Defend traditional (one man, one woman) marriage. Uphold parental authority over children. Empower parents with educational choice.

A century ago, the Supreme Court called the traditional two-parent family "the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement" (*Murphy v. Ramsey* [1885]). I pray for leaders at all levels to have the wisdom—and the courage—to stand on such principles today.

***D. James Kennedy** is the president of Coral Ridge Ministries Media and the founder of the Center for Christian Statesmanship.*

Remove Perverse Incentives

Sen. John Ashcroft

Government must encourage families to come together and stay together through cultural, not governmental, pressures. The most important role for government is to remove the perverse incentives of the welfare state.

Current policy encourages parents to abdicate financial and moral responsibility for their children to the government. Our entitlement system induces some irresponsible fathers to abandon their families, cavalierly confident that government will step in. If we resist the temptation to cure every societal ill with more government programs, I believe parental influence and responsibility will fill the void.

Illustration by Anatol Wooff

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We must weed out invasive government policies, so that our culture can recuperate. Our current welfare system penalizes marriage and work and fosters dependency, and it must be reformed. We should also eliminate the marriage penalty in the tax code. In addition, we should modernize 60-year-old labor laws to grant working parents the opportunity for flexible work schedules, so that families can spend more time with their children.

***John Ashcroft** is a Republican senator from Missouri.*

A Modest Role
William A. Galston

We should be appropriately modest about the role of government in promoting family stability. Current rates of divorce and out-of-wedlock birth reflect deep cultural changes over which law and public policy have limited influence. Still, there are some responsible steps government at various levels should take.

Reducing out-of-wedlock birth. In the past decade, several promising programs to reduce pregnancy among unmarried young people have been developed at the local level. The federal government should create—or help the nonprofit sector create—a clearinghouse to inventory these programs, evaluate them rigorously, and provide reliable information to states, localities, and community-based organizations. Since recent research suggests a connection between the welfare system and out-of-wedlock birth, welfare reform should permit states to adopt new policies that reduce perverse incentives.

Making marriage pay. The federal tax code tilts against families. To correct this, we should dramatically increase the dependent exemption for young children and do what we can to eliminate the marriage penalty. In addition, tax credits for education and training should be made available to parents who leave the paid work force for extended periods to care for young children and then seek to return.

Restricting divorce. States should reshape their laws of divorce to make divorce more difficult when minor children are involved. I favor the elimination of unilateral no-fault in such cases, with the alternative of a five-year waiting period. In addition, as Maggie Gallagher, Elizabeth Scott, and others have suggested, states should stand behind the premarital agreements of couples who wish to make their own marriages harder to dissolve than state law requires.

***William A. Galston** is a professor at the School of Public Affairs at the University of Maryland at College Park, the director of the Institute for Philosophy and Public Policy, and a former deputy assistant to President Clinton for domestic policy.*

Find the Will
David Blankenhorn

Can government do anything to reverse the trend of fatherlessness? Yes. Reform no-fault divorce laws, eliminating the right to unilateral divorce on demand. Lengthen waiting periods for divorce. Create financial and other incentives for engaged couples to participate in marriage preparation and for couples with troubled marriages to get counseling.

Reform school curricula that trivialize or denigrate marriage. Stop the practice of mainstreaming pregnant girls and teen mothers through the school system. Prohibit boys who impregnate girls from participating in sports and other extracurricular school programs. Enforce statutory rape laws. Put the current welfare system out of its misery and replace it with public and private efforts, including faith-based initiatives, that embody effective compassion and promote marriage.

Government should hire people who will publicly insist that unwed childbearing is wrong.
—David Blankenhorn

Eliminate the antimarriage bias in the Earned Income Tax Credit. Increase the value of the marriage deduction in the tax code. Calculate child-oriented tax exemptions and credits on a per-parent basis—that is, permit households with two parents twice the exemption and credit value of one-parent households.

Give priority to married couples in public housing. Reform adoption laws and procedures so that more children will be adopted, sooner, by married couples. Appoint and hire people who will publicly insist that unwed childbearing is wrong, that our divorce rate is far too high, and that our society should dedicate itself to increasing the proportion of our children who grow up with their two married parents.

The real question is not whether we know what would work, but whether we want to do what would work.

***David Blankenhorn** is the president of the Institute for American Values and the author of* Fatherless America *(HarperCollins).*

Preserve, Protect, Defend the Family
Dan Quayle

There is no question government has a role, albeit a minor one, to play in strengthening families. In recent years, the real problem in our

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society hasn't been so much that families have failed but that government has failed to act in the best interest of families. Some common-sense reforms would do much to correct the government's anti-family bias.

Taxes. The government could and should immediately repeal the marriage penalty, increase the tax exemption for children and index it for inflation, and repeal regulations prohibiting employers from paying "family wages." As a long-term solution, I support a modified flat tax that maintains the deductions for home mortgages and charitable giving.

Divorce. States should reassess their "no-fault" divorce laws, and make children's interests paramount in divorce proceedings.

Welfare. We should scrap our current system, which encourages illegitimacy and discourages work, in favor of new ways to help those truly in need. Senator Dan Coats's "Project for American Renewal" is a good place to start.

Adoption. The House of Representatives has passed reforms removing barriers to interracial adoption and making adoption easier in general. The Senate should pass this bill and send it to the president.

We also desperately need help from non-government institutions like the media and the entertainment community. They have a tremendous influence on our culture and they should join in when it comes to strengthening families.

Dan Quayle, the 44th vice president of the United States, is the chairman of Campaign America.

Reverse an Anti-Marriage Bias

Paul M. Weyrich

In 1987, the Free Congress Foundation pioneered the development of cultural conservatism with a book called *Cultural Conservatism: Toward a New National Agenda*, by William S. Lind and William H. Marshner. This book suggests that, to strengthen American families, government could:

Raise the personal exemption (for dependents only) to its original, 1948 value, which in today's dollars would be more than $6,000.

Make the child-care credit universal, so parents who care for their own children receive the same benefits as those who send their kids to day care.

Permit employers to offer a "family wage," that is, a higher wage to heads of families. The family wage was a major Victorian reform that was made illegal by a Department of Labor regulation issued in 1966.

Eliminate "no-fault" divorce.

Assign children their own guardian *ad litem* in any divorce proceeding. The guardian would represent the children's interest in having the parents stay together.

Limit cash welfare benefits to intact families and offer "matching grants" to heads of intact families with full-time jobs whose income is insufficient to support a family.

Fund programs in which volunteers build homes for sale (not rent) to the poor, with the proviso that these homes may only be sold to intact families.

Current government policies reflect a consistent bias against traditional families. The proposals above depend upon the willingness of those who make government policy to favor such families and regard them as essential to the nation's future. In the face of the influence of "political correctness" (which is to say, cultural Marxism) in both political parties, that most basic change will be the most difficult to bring about.

Paul M. Weyrich is the president of the Free Congress Foundation.

Do No Harm

Kay James

Government's first obligation is to do no harm. For 60 years, Big Government has engaged in massive intrusion into the family—with disastrous consequences. It is time to get out of the way.

What the government should not do has been obvious to conservatives for many years. It should not maintain a tax system that punishes two-parent families and forces both parents to work; it should not grant "no-fault" divorces more readily than drivers' licenses; and it should not maintain a welfare system that rewards illegitimacy and punishes women who get married.

Ronald Reagan used to say that "government does not solve problems; it subsidizes them." Social engineering, whether done by liberals or conservatives, is still social engineering. Imagine the horrific programs the federal bureaucracy would create to "help" the family. First, it would redefine "family," then "mothers," then "fathers." Could they really even settle on a definition of a child?

Government should not grant no-fault divorces more readily than drivers' licenses.
—Kay James

Kay James is the dean of the Robertson School of Government at Regent University, in Virginia Beach, Virginia.

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The Lady in Red Tape

By Sheila A. Moloney

Judy Hooper has two passions in life: doughnuts and the Occupational Safety and Health Administration (OSHA).

Hooper loves doughnuts. That's one of the reasons she opened a bakery in Evanston, Illinois. It's a small shop, bringing in about $50,000 in profits annually. That's not enough to make her rich, but the challenge of running a small business and her talent for baking keep this 35-year-old Chicago native busy.

Ask Hooper about OSHA, however, and her face glazes over with disdain. A 1994 inspection of her 30-person bakery by OSHA officials left Hooper with $13,000 in frivolous fines. Her infractions included a failure to warn employees of the hazards of household dishwashing liquid. To recoup the cost of the fines, she would have to sell 260,000 doughnuts, or 10,400 cakes, or 1,040,000 cookies.

The national news media picked up her story, but OSHA refused to back down. So has Hooper. Though she paid the fine, she hopes to file a class-action suit against the federal agency, and is trying to enlist other OSHA victims to help her cause.

She will find plenty of recruits. The bakery owner joins millions of women entrepreneurs across the country who are finding out just how intrusive Big Government can be. Indeed, one of the most overlooked issues in this campaign season is how the rising number of women business owners—a third of all U.S. firms—are being beaten down by Washington's overbearing laws, inflexible regulations, and arcane tax policies.

If they mobilized, these women could be a potent force. The National Foundation for Women Business Owners (NFWBO) reports that the number of women-owned businesses in the United States will reach 8 million this year, employing more than 18.5 million people and generating more than $2.28 trillion in gross sales. Over the last nine years, NFWBO estimates, the number of women-owned firms has increased 78 percent. "The growth in the number of women-owned businesses continues to be dramatic across the nation," says Julie R. Weeks, NFWBO's direc-

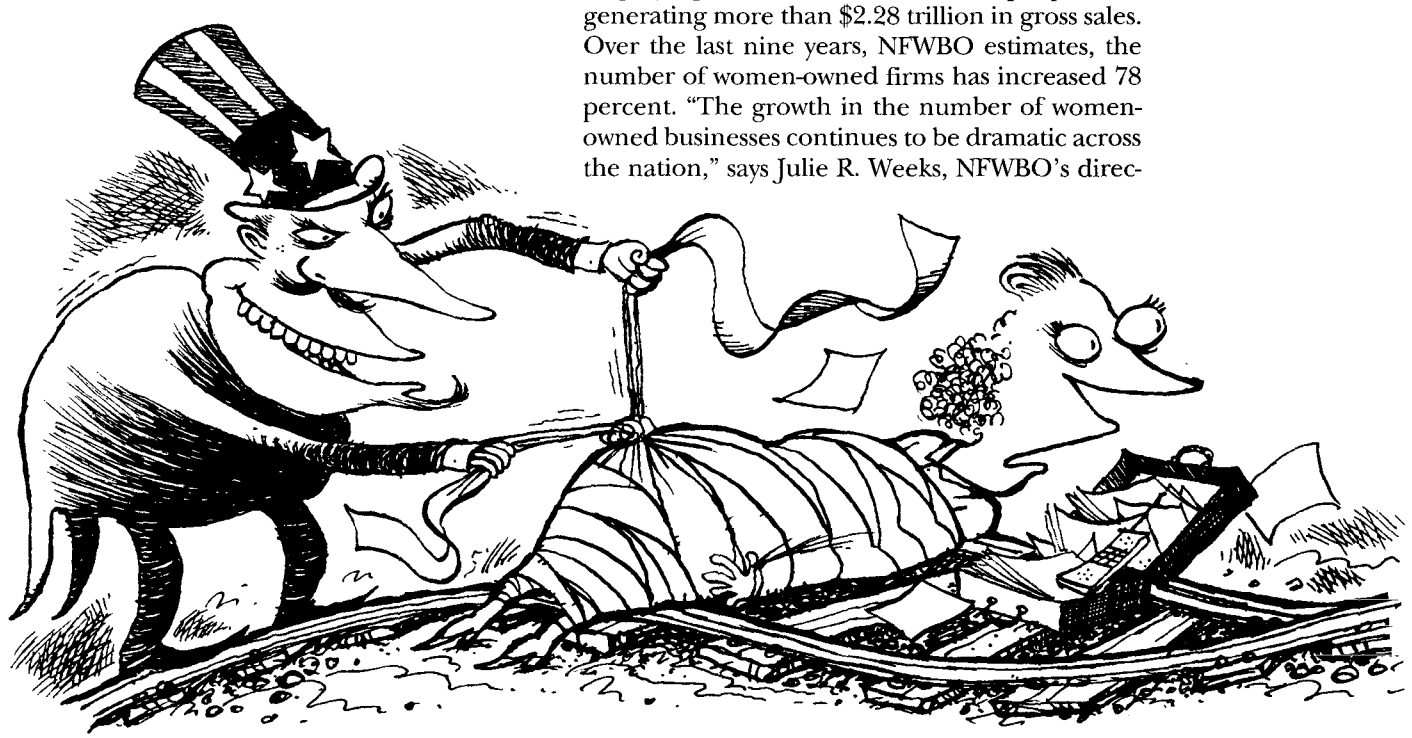

Illustration by David Clark

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A rising number of women business owners suffer from Washington's overbearing laws, inflexible regulations, and arcane tax policies.

tor of research. But Sue Myrick, a first-term Republican congresswoman from North Carolina and a former small-business owner, knows first-hand how Big Government threatens this growth: "Most government-imposed regulations are duplicative, expensive, and time-consuming," she says. "If not checked, regulations can cripple a small-business owner's ability to compete in the marketplace."

Attack on Nurses

Consider Arlene Kaplan's Heart to Home, Inc., a New York company that provides skilled nurses for patients needing home health care. To accommodate their unpredictable hours, Heart to Home hires nurses as independent contractors. That means the nurses pay their own state, federal, and Social Security taxes.

For the 70 nurses working for Kaplan—and the thousands of others who labor as independent contractors in health care—their employment status buys them flexibility. They are free to schedule their work around their families and other commitments, working anywhere from 5-hour to 60-hour weeks as needed. For the home health-care industry, independent contractors deliver affordable, quality care on demand.

But to the IRS, the independent contractors who find jobs through Kaplan's company aren't independent enough. Based on a 20-point litmus test, IRS officials determined in a 1990 audit that Heart to Home's nurses legally were not independent contractors, but employees. Kaplan's business was assessed $250,000 in back taxes and fines for misrepresenting her workers to the IRS.

According to Sandra Abalos, a CPA, the test is "so vague and so subjective" that even tax law practitioners cannot determine who is an employee and who is an independent contractor. Heart to Home's lawyer Barry Frank believes the IRS is "targeting small businesses" by frequently auditing those who hire independent contractors. In the last seven years, the IRS reclassified 439,000 independent contractors as employees and collected more than $750 million in fines.

So far Kaplan's business has accrued $20,000 in legal fees and expects another $40,000 in court costs when she goes up against the IRS later this year. Unlike most people engaged in legal jousting with this federal agency, however, Kaplan is the plaintiff: Through a complicated financial maneuver, she managed to sue the IRS.

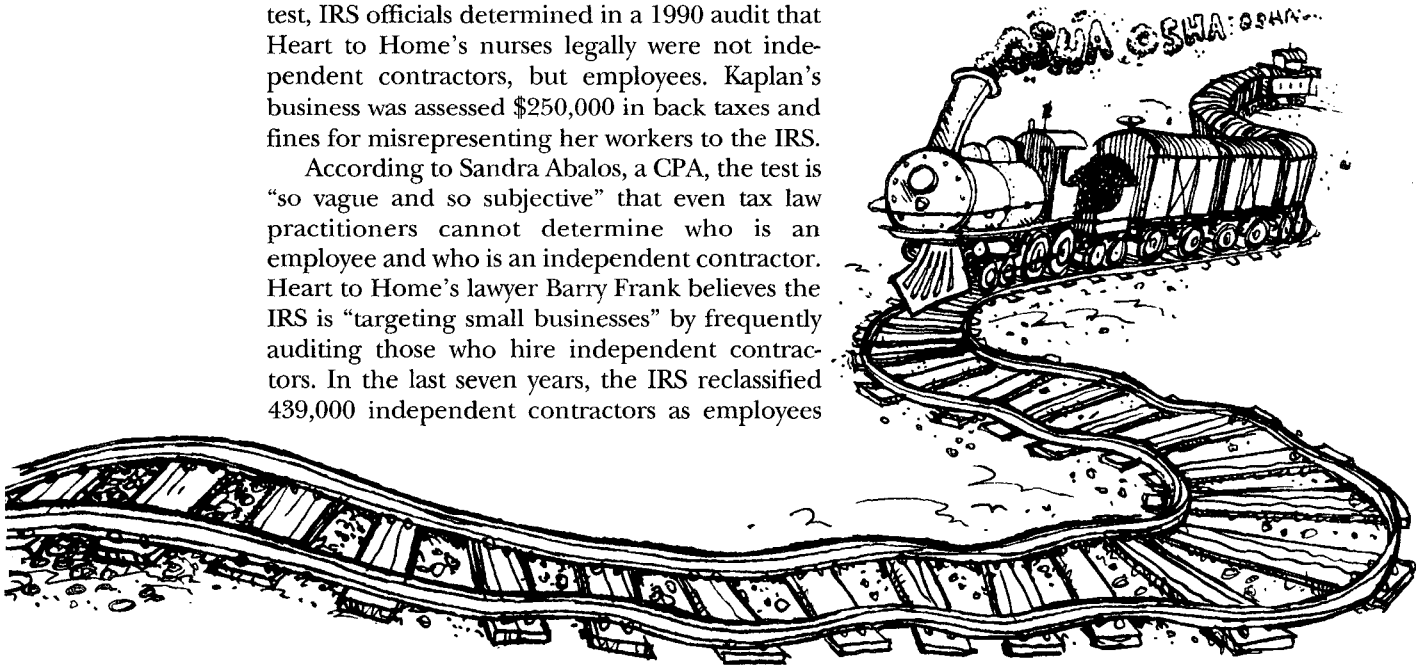
"If the government wins, they put me out of business," Kaplan says. "I don't own enough things in this entire world to pay off what they want from me." Even if Kaplan is successful, there is little hope she'll be reimbursed by the IRS for her legal fees. But forcing the agency to retreat would be a moral victory for her, and might make IRS agents a little less eager the next time around. Says Kaplan, "Maybe they will get off someone else's back in this business."

Tripping up Toddlers

The IRS, of course, retains no monopoly on crippling regulation. A few years ago, Virginia resident Tanya Wallace started a small business called Toddlin' Time, a playgroup for stay-at-home moms and their kids. When she decided to franchise her idea, however, she ran up against Federal Trade Commission (FTC) regulations intended for larger companies.

The FTC's "franchise rule" requires all companies, regardless of their size, to meet the same franchising requirements. So Toddlin' Time, which simply brings mothers and children together at dance studios and karate centers to play games, must meet the same auditing requirements as McDonald's, a company with billions of dollars in sales and operating costs, expensive equipment, and trained staff.

With just a few hours a week in administrative



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work, Toddlin' Time franchise owners can earn around $14,000 per year by enrolling 50 kids for six-week sessions at $36 per child. Wallace sees her idea as an excellent opportunity to combine family and business in a way that "feels comfortable to home-based women." The business gives kids a regular time and place to play together while stay-at-home moms get to know each other.

It's an easy concept to market. But FTC franchising rules have stopped Wallace cold. To comply, she had to expend $15,000 in auditing and lawyers' fees just to become a licensed franchiser.

In the last seven years, the IRS reclassified 439,000 independent contractors as employees and collected more than $750 million in fines.

But Wallace couldn't pass these high start-up costs along to the moms interested in Toddlin' Time, so she marketed her franchise below cost. That meant selling four franchising chains just to break even. Yet the fees did not end when her start-up was complete. The FTC requires franchise operators to update their financial statements every year and demands yearly audits to verify the changes.

"We're not a big company," Wallace explains. "We can't afford the two or three or four thousand dollars each year to [prepare] FTC financial statements."

After six years and 10 successful Toddlin' Time franchises, Wallace is putting the brakes on further expansion. She says she simply can't afford the fees and regulations. Despite these setbacks, Wallace has not totally given up on the idea of Toddlin' Time. She is pursuing a consulting practice to spread her idea, though not her logo, to moms around the nation.

"There is little that you can do when you're up against Big Government and government regulations," she says. "It's easier to walk away, unfortunately, than to deal with all the regulations and expectations they have for you."

The Disablers

When it comes to federal regulations like the Americans with Disabilities Act, however, walking away is not an option. Ask Karla Hauk.

She and her husband and business partner, Richard Hauk, opened a 32-room Days Inn franchise in Wall, South Dakota. That was on July 1, 1993, about six months after the ADA went into effect. They thought they were ready: Following their franchiser-approved plans, they made two of their 32 rooms accessible to handicapped patrons and made the entrance of their motel accessible to wheelchairs. When they opened their doors, they became the first motel in Wall to provide rooms with accommodations for the handicapped.

Their reward? Karla, Richard, their architect, their contractor, and their franchiser all are being sued by the U.S. Justice Department for failure to comply with ADA regulations. They are charged with "unlawful discrimination" toward individuals with disabilities.

It all started with a whirlpool. According to the Justice Department's suit, the Hauks' two-story motel became a three-story facility when they installed a whirlpool in the basement. ADA regulations require that their motel have an elevator so that handicapped customers can reach every floor, as well as a ramp leading to the whirlpool. According to Karla Hauk, installing the elevator alone would cost more than $100,000, not including the increase in property taxes. Even if the owners removed the whirlpool and left the basement empty, they would still be required to build an elevator for handicapped access, because the Justice Department has declared the basement "occupiable space."

In addition to the elevator, the ADA requires the Hauks to widen all of the bathroom doors in the nonhandicapped rooms. "If someone who uses a wheelchair . . . visits another guest in a non-accessible guest room, he or she will not be able even to enter the bathroom in that room," according to the suit.

Changing the building's design after the fact looks nearly impossible. "Structurally we don't know how you can do it," says Hauks' lawyer Kim Ruckdaschel-Haley. "What do you do, just knock the place down and start over?"

Karla Hauk says she believes there should be provisions for the handicapped, but that "a lot of this is unreasonable." She says if they had known then what they know now, they never would have built the motel. "We wish to God we never had. They will bankrupt us."

Because the Hauks' business is dependent upon the seasonal tourist traffic at nearby Badlands National Park, they bring in profits of only $20,000 to $25,000 a year. "If Karla and Richard have to fight this, they'll have to go out of business," says their lawyer. In addition to substantial costs to comply with the ADA regulations, the co-owners could each be fined $50,000 by the Justice Department. When the ADA went into effect, it was unclear how the law would be implemented, says Ruckdaschel-Haley. "Karla and Richard in good faith thought they were doing everything they could."

For ADA bureaucrats, it seems, everything is

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not enough. So says Debbie Shaffer, owner of an interior design firm in Walla Walla, Washington. Shaffer wanted to move her eight-year-old company, DGS Interiors, out of her home and into a downtown storefront to expand her business. The proposed Main Street site consisted of a 1,500 square-foot main floor for retail sales, with a raised mezzanine to serve as both a design studio and an administrative office.

The problem? Contractors familiar with ADA regulations informed Shaffer that she had two options in bringing the bi-level facility up to code: either build an elevator to make the second floor accessible to the handicapped, or illogically and wastefully duplicate the design studio on the showroom floor.

If a handicapped client wanted a design consultation, Shaffer says, she could easily accommodate their needs by bringing her portable decorating samples down to the lower level. But this was not good enough: According to the ADA, this special treatment would unfairly discriminate against the handicapped.

To comply with the ADA codes, Shaffer would have to spend $150,000 to install an elevator, build handicapped bathrooms, and widen all of the building entrances and doorways. These costs were in addition to her other remodeling expenses. "I have a great amount of support for people with any kind of disability," she says, having grown up with a sister who is deaf. "But the government steps in and takes it too far."

The results? "As a small business owner, it was black and white," Shaffer explains. "I couldn't afford it." Shaffer believes the downtown location could have increased her business by 50 percent, but because the regulations were "too overwhelming, with too many hoops to jump through," she was forced to scrap her plans to expand.

Doughnut Holes

If the ADA's regulatory reach can be breathtakingly broad and intrusive, its rival in the universe of federal agencies is OSHA. Over the last two fiscal years, OSHA has recorded 234,409 violations and assessed over $158 million in fines.

Responding to complaints by a disgruntled employee, OSHA held a three-hour inspection of Judy's Bakery, the Illinois mom-and-pop operation cited above. Nothing could have prepared Judy Hooper for OSHA's report, which cited her for, among other things:

(1) Failing to have a written "Material Safety Data Sheet" for "hazardous" chemicals used at the bakery. The only chemicals used at Judy's Bakery are household bleach and the sort of pink dishwashing liquid used in many homes. Both "chemicals" have clearly marked warning labels. OSHA was unmoved. Fine: $2,500.

(2) Failing to have a written plan for emergencies such as a fire. Hooper's shop, which is on the first floor and has four clearly marked exits, is inspected twice a year by the Evanston fire department. Local fire officials had never found any potential safety problems. Fine: $2,500.

(3) Failing to have an accident log on the shop's wall. At the time, her company had never had an accident requiring a workmen's compensation claim. The officials said this was irrelevant and argued that even if the log contained all zeroes (one for each day without accidents), it must still be hung on the wall. Fine: $500.

At her informal settlement hearing with OSHA officials, Hooper was able to negotiate the fines down from $13,000 to $5,450. The catch was that Hooper was required to spend the balance of the fines due—approximately $7,500—on safety and health programs for her employees and to present proof that she had complied. Ironically, none of the citations was related to the employee's complaints, which were found to be baseless.

The Gentle Scrub Jay

It was not the safety of employees that concerned the government officials who intruded into Anita Cragg's business, but the safety of the Florida scrub jay.

Cragg, the owner and president of Space Coast Management Services, Inc., bought an existing subdivision in Country Cove, Florida, in 1992, with plans to expand and build new homes adjacent the previously developed site. Cragg's permits were in order and some buyers were waiting to build and settle in.

Enter the scrub jay. While surveying for waterline extensions in 1993, officials from the U.S. Fish and Wildlife Service (USFWS) noted two jays flying onto Cragg's lots. Under the Endangered Species Act, the scrub jay, a 12-inch-long, blue and gray crested jay, is listed as threatened. The officials claimed that Cragg's planned development posed a potential hazard to land "suitable for occupation by scrub jays" and suspended construction on the site.

It's just easier to walk away from the business, says Tanya Wallace, than to deal with all the government regulations.

According to Cragg, neither the USFWS, nor an independent environmental engineer hired by Cragg, could locate any scrub jay nests on her property. Her four-person company fought with

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officials from the USFWS for 18 months. Construction was frozen in the meantime, while Cragg's buyers had to continue paying real-estate taxes on the land.

The Fish and Wildlife Service pushed Cragg into a corner. The agency forced her firm to purchase four acres off-site for every one on-site to compensate for the loss of potential scrub jay habitat. That little bargain cost her more than $100,000. It "didn't really help the scrub jay," she says, "because we really weren't hurting it in the first place."

An Irresistible Offer

From 1964 until 1979, most of the commercial garbage in Seattle was hauled to one landfill located on the Tulalip Indian reservation. The site was closed and cleaned up in 1979, getting a clean bill of health from the Environmental Protection Agency. For the next 16 years, there wasn't a whiff of trouble from Seattle's former commercial dump.

And then the EPA started talkin' trash: In 1995, the agency placed the Tulalip Landfill on the Superfund's National Priority List, a list reserved for the country's most serious hazardous waste sites. EPA Project Manager Cindy Colgate admitted that "sometimes we think a problem is taken care of when it's not."

Apparently, this was one of those times. Superfund legislation allows the EPA to retroactively assess liability for environmental clean-ups. So the agency is asking Seattle's commercial businesses for approximately $40 million to clean up the landfill a second time.

The EPA has made what it calls "settlement offers" to 208 Seattle companies, each of which hauled more than 200 tons of waste to the site. These offers allow companies the chance to "resolve their liability" by making payments of $11,070 to $185,497 to the EPA, according to Colgate. The official insists this "is not a fine," but instead an "agreement between the EPA and the parties which says we won't sue them regarding the site." It also protects the firms from third-party suits. Many attorneys are advising firms to pay the EPA and move on. So far, 187 parties have decided to settle rather than face EPA lawsuits.

For some women-owned firms, the experience has been a primer on the power of federal agencies to impose their will. One such firm in Seattle, an import-export company whose owners asked not to be identified, agreed to pay their $11,070 fine. In total, Seattle's business owners are forking over $8,130,610 to the EPA—at least $30 million short of its goal. Suzanne Burke, the president of the Fremont Dock Co., which was not named in the settlement, says she believes the 208 letters are "just the beginning," and fears her company may be next on the list. She says the $40 million Superfund cleanup is "an absolute horror for small businesses."

Fighting Back

There may be some legislative help on the way for business owners. Congress is seeking to clarify the ambiguity over the tax status of independent contractors versus employees, which bedeviled business owner Arlene Kaplan. Congressman Jon Christensen, a Nebraska Republican, is sponsoring a bill to simplify IRS rules for independent contractors. A spokesman for Christensen says the bipartisan bill could pass this year. Oklahoma Republican Don Nickles has introduced similar legislation in the Senate because, according to his spokesman, "hassle from the IRS" is the principal complaint from his constituents.

But as more women start their own businesses, they are becoming more cynical about government's helping hand. Forty-seven percent of the women business owners surveyed in 1995 by the United States Trust Company believed that government policies had made things "a little worse or much worse" for their businesses. When asked to rate specific government policies, almost all of the female respondents (91 percent) said they feel most threatened by government-required paperwork, while 90 percent feel threatened by taxes on businesses, raw materials, final products, or services.

Nearly half of businesswomen surveyed believe that government policies make things "a little worse or much worse" for their firms.

The bureaucrats contend they're changing the system. Several officials separately claimed OSHA's new and improved agency has purged archaic enforcement procedures, yet all cited the same case to prove their reform: "Instead of fining someone for not hanging one of our posters about workers' rights," they say, "we offer them a poster to hang." While this may be a first step in dismantling the adversarial relationship between employers and OSHA, it demonstrates how federal agencies are not getting the message from business owners across the country. What happens, one might ask, if they don't hang the poster?

Women business owners are bumping against a ceiling all right. But it isn't made of glass—it's made of red tape.

Sheila A. Moloney *is the assistant editor of* Policy Review: The Journal of American Citizenship.

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English Is Brit

Allowing voters to cast foreign-language ballots degrades the idea of citizenship.

California's Yuba County is getting ready to spend $12,000 this November on election materials that nobody will use. That's because the federal government forces local officials to print voting information in Spanish for every election.

"Bilingual ballots are an enormous waste of county resources," says Frances Fairey, Yuba County's registrar of voters. In last March's primary election, this county north of Sacramento was forced to spend $17,411 on Spanish-language election materials. But, according to Fairey, "In my 16 years on this job, I have received only one request for Spanish literature from any of my constituents."

The biggest problem with bilingual ballots, however, is not that they go unused in Yuba County, but that they *are* used in so many other places. Thousands of Americans are voting in foreign languages, even though naturalized citizens are required to know English. The National Asian Pacific American Legal Consortium estimates, for instance, that 31 percent of Chinese-American voters in New York City and 14 percent in San Francisco used some form of bilingual assistance in the November 1994 elections. Though these figures may be overstated, proportions anywhere near this magnitude are devastating to democracy. As Boston University president John Silber noted in congressional testimony last April, bilingual ballots "impose an unacceptable cost by degrading the very concept of the citizen to that of someone lost in a country whose public discourse is incomprehensible to him."

A nation noted for its diversity needs certain instruments of unity to keep the *pluribus* from overrunning the *unum*. Our common citizenship is one such tool. Another, equally important, is the English language. It binds our multiethnic, multiracial, and multireligious society together. Not everyone need speak English all of the time, but it must be the *lingua franca* of civic life. Since the voting booth is one of the vital places in which citizens directly participate in democracy, it must be the official language of the election process.

It is not, however, and political jurisdictions ranging from Yuba County to New York City can pin this mess on the perversion of voting-rights legislation. The Voting Rights Act of 1965 guaranteed blacks the right to vote in places, particularly the South, where they had been systematically blocked from electoral participation, often through the use of bogus "literacy tests." But as Manhattan Institute scholar Abigail Thernstrom has shown in her comprehensive book *Whose Votes Count?*, it did not take long for this important piece of civil rights legislation to expand in dangerous ways.

After the Act's passage in 1965, civil rights groups toiled to expand its authority. When the law came up for reauthorization in 1975, Hispanic organizations argued that English-language ballots were the equivalent of literacy tests. People whose first language was Spanish needed special protections in order to vote, they claimed, citing low turnout among Hispanics. This was sheer quackery. Literacy tests in the South were used for the fraudulent purpose of keeping blacks away from elections. Low Hispanic turnout was mainly due to the fact that so many Hispanics were not citizens and therefore ineligible to vote.

Nevertheless, Congress sided with the activists. It required bilingual ballots in any political district where "language minorities" made up at least 5 percent of the total population and less than half of the district's citizens were either registered to vote or had voted in the 1972 presidential election. It also required that bilingual election materials be made available to voters in every county in which the language-minority population had an "illiteracy rate"—meaning "failure to complete the 5th grade," a trait that includes many immigrants—above the national average. Interestingly, "language minorities" were not defined by language (a cultural characteristic), but by ancestry (a genetic one). The category included only "persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage." French Canadians living in Maine, the inhabitants of Little Italy in New York City, and the Pennsylvania Dutch received no special assistance. By the early 1990s, the foreign-

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language ballot provisions of federal voting-rights law applied to 68 jurisdictions in the United States.

The bilingual-ballot mandate bloated even further in 1992, when Congress said that counties with more than 10,000 residents who speak the same language and who are not proficient in English must provide bilingual voting ballots, even if their potential users make up less than 5 percent of the overall population. This applied to heavily populated areas with large numbers of non-English-speaking residents, such as Chicago, New York City, and San Francisco. To comply, New York City had to purchase new voting machinery because its old equipment did not have enough space for all the Chinese characters that the law said it must provide. Los Angeles County now offers ballots in Chinese, Japanese, Korean, Spanish, Tagalog, and Vietnamese. In the three elections between November 1993 and November 1994, the county spent more than $1.2 million to print voting materials in these foreign tongues. The Mexican American Legal Defense and Education Fund has called this "a particularly small price to pay." This "small price" could have paid for a year's tuition at UCLA for 308 Los Angeles residents.

:en Here

By John J. Miller

Ballot initiatives are often worded very precisely. Will translations always convey the exact English-language meaning of every initiative? In a deliberative democracy, they must. On a 1993 New York ballot question, translators printed the Chinese character for "no" where it should have said "yes." More important, immigrant voters should not even need bilingual ballots. We have required naturalization applicants since 1907 to demonstrate English-language proficiency. In order to become citizens—and thus gain the right to vote—the foreign-born have to demonstrate the ability to speak, read, and write simple English. A handful of them are granted exemptions. Naturalization applicants who are over the age of 50 and have lived in the United States for 20 years do not have to meet the English requirement. But they only make up about 7 percent of all citizenship applicants. The other 93 percent have to pass the test. So why do we assume they lose their English skills on Election Day? Meanwhile, foreign-language voting sends one more message to immigrants that assimilation is not an important part of civil society.

A popular antidote to bilingual ballots is declaring English the official language of the United States. But that is like declaring the bald eagle its official bird—it's essentially symbolic. Many self-proclaimed official-English advocates in Congress have no intention of repealing foreign-language ballot laws or federal funding of bilingual education. When Senator Ted Stevens of Alaska opened hearings on an official-English bill last December, he proudly announced that "the bill does not affect existing laws which provide bilingual and native language instruction. Those statutes are integral parts of our national language policy." Message to civil rights activists: We're not going to change a thing.

In a speech to the 1995 American Legion convention in Indianapolis, Republican presidential candidate Bob Dole announced that "English must be recognized as America's official language." But he said nothing about bilingual ballots. As a senator in 1992, Dole voted to expand their use.

In August, the House of Representatives passed a bill that would repeal the federal government's unfunded bilingual ballot mandate by amending the Voting Rights Act. It would not deny local communities the right to print non-English voting materials, should they choose to pay for it themselves. Nor would it stop voters from taking punch cards into the election booth. No companion bill, however, has been introduced in the Senate.

There is a long tradition in the United States of ethnic newspapers—often printed in languages other than English—providing political guidance to their readers in the form of sample ballots and visual aids that explain how to vote. In the absence of bilingual ballots, this practice could continue and expand. Perhaps we should also allow voters to bring a friend or relative into the booth, just as blind voters can do. The polling place would remain open to people who have trouble with English, but it also would remind them that English—or even broken English—is the common language of American democracy.

***John J. Miller**, a Bradley Fellow at The Heritage Foundation, is the vice president of the Center for Equal Opportunity.*

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Addicted to Failure

By Rep. Rob Portman

We'll continue to lose the war on drugs until national politicians show local leadership.

A year ago, a 16-year-old constituent of mine, Jeff Gardner, died from a lethal combination of "huffing" gasoline and smoking marijuana. After Jeff's death, his mother, who was aware of a much larger drug problem in the community, called a parent's meeting at the local high school. No one came. She told me her story and asked how her representative in Congress was going to help address the growing drug problem. It was a fair question, but I was not satisfied with the response I could give her.

Members of Congress take seriously their responsibility to represent their constituents in Washington—by legislating, by voting, and when appropriate, by securing federal funding for state and local concerns. Despite spending $13 billion annually on drug-control programs, however, drug abuse is rising dramatically among our youth (see chart).

A big part of the problem has been the president's failure to show any leadership on this issue (until his wise appointment of General Barry McCaffrey as the new drug czar). In fact, President Clinton hurt the antidrug effort by cutting the Office of National Drug Control Policy from 147 to 25 full-time positions, by hiring a surgeon general who advocated legalization of drugs, by cutting funding for interdiction efforts, and by sending confusing messages about the stigma of illegal drug use. It is no surprise, then, that after dramatic reductions in drug use during the decade before Clinton took office, drug use has nearly doubled among teenagers during his administration. The evidence shows that *national leadership* is critical in reducing drug abuse.

Jeff's mother wanted that leadership, but in a manner that would help her in Goshen, Ohio. Spending more federal dollars on drug-control programs was unlikely to directly touch this mother's life. Neither would it encourage other parents in her community to address the drug problem. How could I really help? By rolling up my sleeves and providing leadership where it matters most—at the local community level.

Members of Congress are in a unique position to mobilize people in their own communities. By the nature of our jobs, we deal with every sector of the districts we represent. We can also bring statewide and nationwide expertise and resources to bear on a problem. And we can draw the attention of news media that is so critical to educating and mobilizing neighborhoods to solve their toughest social problems. What I've initiated—and what I'm challenging my colleagues in Congress to embrace—is a new model of governance that recognizes the limitations of Washington-based solutions, while drawing on the resources of citizens locally.

Cause for Alarm

If there is any public-policy area that demands a new, more effective approach, it is drug abuse. Recent Gallup polls show that crime and drugs are Americans' top concerns. When you ask parents and children what is the most serious issue facing youth today, both groups cite drug abuse.

National statistics show there is indeed cause for alarm. After a decade of progress in the war on drugs, the number of young people using drugs began to increase in 1992; use among young kids showed the sharpest increase. LSD use is now at its highest level since 1975, when it was first measured. Since 1992, the number of children between 12 and 17 using marijuana has nearly doubled. To put the problem in perspective, in the average class of 25 eighth-graders (13- and 14-year-olds), five are now using marijuana. And drug abuse is implicated in other social problems—violent crime, dropout rates, and domestic violence, to name a few.

Greater Cincinnati has a drug problem that

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mirrors the startling national statistics. This region of the country experienced a similar decline in drug use in the 1980s. But by the early 1990s, it began to skyrocket. Why?

I'm convinced that the resurgence stems in part from the disappearance both of effective national leadership in the fight against drug use and of the media attention that usually follows such leadership. This attention is vital to teaching children that drug abuse is both dangerous and wrong.

No one makes this point more authoritatively than Jim Burke, the chairman of the Partnership for a Drug-Free America. It was Burke's group in the 1980s that launched the most extensive and successful public-service campaign in the country. Burke also believes strongly that, while the message must emanate from our national leaders and engage the opinion shapers at every level, this issue is best addressed at the community level.

I decided we could not afford to wait for another tragedy to prompt us to action. Over the last year and a half, I have spearheaded an effort to establish the Coalition for a Drug-Free Greater Cincinnati. This effort is not about flashy press conferences and slick brochures. It's a serious, long-term initiative that brings together for the first time community activists already involved in the antidrug effort, key business figures, religious leaders, the media, parents, young people, law enforcement officials, and others. Our aim is to develop and implement a comprehensive, community-based strategy to reduce drug abuse in our region.

Mobilizing Citizens

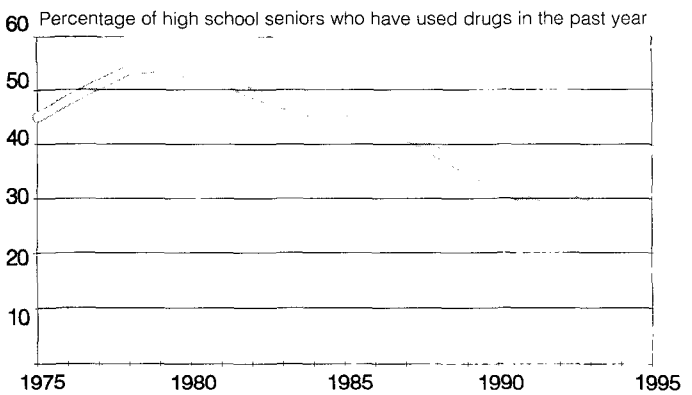
How do you start a coalition? First, you do a lot of listening at all levels—to kids and parents, grass-roots activists, and state and national leaders in the field. Over an 18-month period, we led or helped organize countless meetings in all sorts of settings, from living rooms to classrooms, and from boardrooms to community centers.

We made it clear through the amount of time we devoted to the effort—more than 1,000 man-hours over 18 months—and through our inclusive, nonpartisan approach that this was not about re-election campaigns or shallow publicity. The reaction from the community to this new kind of leadership has so far been very positive. Every television station, every major radio station, the two daily newspapers, and our largest outdoor advertising company are all running antidrug public service announcements and ads. Some of the radio spots are from a popular local rock band. We know that such messages help reduce drug abuse, and Greater Cincinnati now has one of the most aggressive antidrug media campaigns in the country.

Such messages, however, are not enough. The data shows that most people who use drugs go to work every day. Also, work is a good place to find parents who need counsel on dealing with teenage drug use. So we had to engage businesses. We took an idea proposed by one of our national prevention experts and brought it to our coalition in Greater Cincinnati. The result? One of our largest health-care providers and the Ohio Bureau of Workers Compensation will offer, for the first time ever, financial discounts to businesses that adopt certified drug-free workplace programs.

Losing the War Against Addiction

As national leadership waffles over drug use, America's drug culture claims more young victims.



Source: Monitoring the Future Study, University of Michigan, December 1995.

The program makes sense. Businesses like it because health-care and workers' compensation coverage costs less. Health-care providers and the bureau like it because drug-free workplace programs do result in a healthier work force and fewer medical and workers' compensation claims. Communities like it because it helps keep workers drug free, encourages drug abusers to seek treatment, and educates people about the dangers of drug abuse.

We also brought PRIDE, a premier national parents' group, to one of our school districts to train more than 600 parents in taking practical steps to keep their kids drug free. This training will be replicated in every school district in the region. Parents are signing up in droves.

We mobilized our local clergy to incorporate an antidrug message in their sermons every six months and to follow up with an educational slide presentation that we developed. We have established a speakers' bureau to supplement the D.A.R.E. program in the schools, and to help get the message out in community centers and student clubs. The list of initiatives proposed by the local community, brought to the coalition by

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state and national leaders, and facilitated by congressional leadership, goes on and on.

In addition, I have brought to Greater Cincinnati national and state prevention experts to bolster the local effort, including the Partnership for a Drug-Free America, Community Anti-Drug Coalitions of America, and Parents' Resource Institute for Drug Education. I have also brought the president's drug czar, Senator Bob Dole, and Speaker Newt Gingrich to Cincinnati to see the coalition's work firsthand.

The public rightly expects the federal government to do something about drug abuse, which diminishes and threatens the lives of so many of our young people. And the federal government clearly has an important role in combating drug abuse: protecting our borders and interdicting drugs from other countries, strengthening our federal criminal-justice system, and providing federal assistance for the best prevention and treatment programs.

Despite a significant federal effort, however, our country is still seeing dramatic increases in drug use among our teenagers. In the last two years alone, use of illegal drugs has increased 50 percent. We need a new approach.

Many of my colleagues are beginning to agree. At least 15 other members of Congress are establishing, or supporting, similar community coalition efforts in their regions. The entire House of Representatives—in an unusual show of election-year bipartisanship—recently endorsed this community-based initiative.

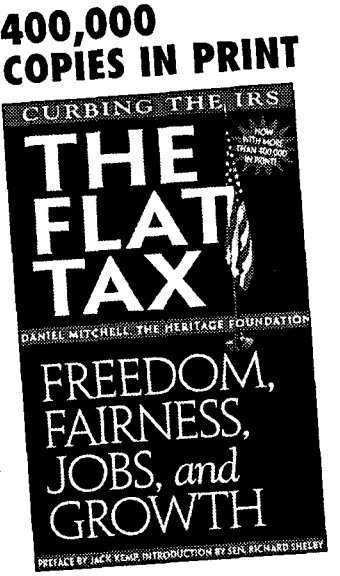
That's a much more significant step than cynics imagine. Although the public has become disenchanted with the federal government's ability to address our worst social problems, there's still an abiding faith in a community's ability to fashion solutions close to the needs of ordinary people. And members of Congress can still be a catalyst. Although the public seems to distrust Congress as a whole, individual members are generally well respected in their districts.

The point is that members of Congress *can* and *should* inspire citizens to action. We've heard about the need to revitalize civil society. Well, here's a concrete example of how members of Congress can do that in a way that actually touches people's lives—not by passing more laws in Washington, but by using their bully pulpits to engage their communities back home. This is how we as national leaders can best exert—and sustain—national leadership over the long haul.

And for the sake of the Jeff Gardners in our communities, we'd better get started.

***Congressman Rob Portman**, a Republican, represents the 2nd District of Ohio.*

The answer to all your tax problems is in this little book!



The current tax code is in shambles. It has turned the government into the enemy of prosperity and freedom and has created a "parasitic ruling class" that takes our money and warps our values. With tax issues at the forefront in this election year, every hard-working American needs to know what the flat tax will and will not do for him. This book will explain, in clear terms, the many advantages of the flat tax, including how it:

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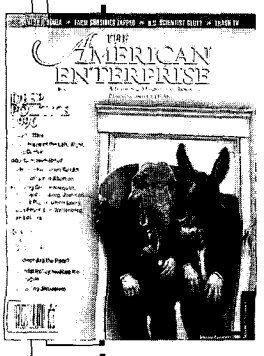

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Town Square

NEWS FROM THE CITIZENSHIP MOVEMENT

Groups to Watch

Targeting Teen Pregnancy

In his 1995 State of the Union address, Bill Clinton challenged parents and leaders "from all over the country . . . [to] join together in a national campaign against teen pregnancy." A new private, nonpartisan group has emerged to accept that challenge. The National Campaign to Prevent Teen Pregnancy notes that more than 40 percent of American girls become pregnant by age 20, the highest teen pregnancy rate in the industrialized world. Eighty-five percent of these pregnancies, according to the group, are unintended. The premise of the Campaign is that teenage pregnancy contributes mightily to many social problems, that national leaders shy away from declaring that it is wrong, and that initiatives to reduce teen pregnancies are disjointed, little noticed, and poorly supported.

The Campaign's goal is to reduce the U.S. teen pregnancy rate by one-third by 2005. Its strategy is to help organize local coalitions of community-based groups to confront the problem at the local level, prod political leaders to raise the public profile of the issue, evaluate the successes and failures of various teen-pregnancy programs, and enlist the news and entertainment media in the effort to change cultural norms.

Perhaps the most significant feature of the Campaign is its acknowledgment, rare in public policy, that "part of a strategy for reducing teenage pregnancy should be a more overt discussion of religion, culture, and public values." To pursue that goal, the campaign is dedicating one of its four task forces to "religion and public values." This task force is chaired by William Galston, a former domestic policy adviser to President Clinton, and includes Heritage Foundation analyst Patrick Fagan, Mary Rose McGeady of Covenant House, scholar Jean Bethke Elshtain of the University of Chicago Divinity School, and a representative of the Alan Guttmacher Institute, among others. Former New Jersey governor Thomas H. Kean and Urban Institute scholar Isabel Sawhill are the board chairman and president, respectively. The Campaign will accept no government funding.

☛ *Sarah Brown, executive director, The National Campaign to Prevent Teen Pregnancy—tel.: 202-857-8655, fax: 202-331-7735.*

New-Style Conservation

Leading a coalition of scientists, business groups, property-rights advocates, and conservationists, the National Wilderness Institute recently released its "American Conservation Ethic." The document comprises a set of principles for protecting the environment and managing resources without recourse to "old-style environmental thinking" that relied on federal mandates. Sound environmental policy, says executive director Rob Gordon, should enlist "liberty, free markets, property rights, scientific inquiry, technological advancement, and a realistic understanding of the natural world." Among its principles:

- Renewable resources are resilient and can be used and managed wisely;
- Efforts to control pollution should measure both benefits and costs in a scientific fashion;
- Management of natural resources should take into account the conditions of particular situations and sites;
- Public policy should be guided by science;
- The most "promising new opportunities" for conserving and improving the environment lie in protecting private property and "unleashing the creative powers of the free market."

☛ *NWI—tel.: 703-836-7404, fax: 703-836-7405, e-mail: 74747.2650@compuserve.com.*

What Works

School Choice in Milwaukee

Supporters of school choice generally frame their argument in economic terms. They compare public schools to "monopolies" that can get away with a shoddy "product"—substandard education—because poor parents have nowhere else to go. By giving these "consumers" more educational choices, it is said, vouchers will introduce an element of "competition" into public education, thereby forcing public schools to raise their educational standards or risk losing their "customers."

In *Break These Chains*, former presidential speechwriter Daniel McGroarty looks at the school-voucher controversy through the eyes of a journalist, not an economist. He offers a "battlefield account" of the Milwaukee Parental Choice Program, which claims to be "the first ever 'voucher' plan, providing public funds for private school choice." In the process, he makes some important modifications to the standard arguments for school choice.

For example, McGroarty challenges the view that public schools are not responsive to incentives. On the contrary, he argues, the problem is that they're *too* responsive: "Not only is there no penalty for failure, the objective fact is that *poor schools prosper.* When funding follows failure, bringing underachieving schools more social workers and school psychologists, special 'stay-in-school' programs, an army of 'at-risk' coordinators and early intervention experts, schools faithfully produce the failure that begets funding. Failure, in this Orwellian inversion, *is* success. Schools, predictably, sink to the challenge."

McGroarty also points out that choice in practice is sometimes very different from choice in theory. "At an abstract, theoretical level," he notes, "one can champion freedom of choice and condemn, for example, the faddish focus on multicultural curricula without confronting a simple fact:

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Some parents, given a choice, will choose multicultural schools." In McGroarty's view, the "Afrocentric focus" of many choice schools constitutes a positive aspect of the school culture. "Voucher advocates," he argues, "must have the courage of their convictions to accept choice in practice."

For McGroarty, the decisive argument for school choice is not an "economic" one—promoting competition—but a moral one: parental empowerment. He quotes the principal of one Milwaukee choice school who, when asked what made her school so special, cited parental involvement. "Choice parents are more active than our tuition parents are," she said. "Choice parents want the opportunity to get involved with their child's education."

When parents become involved, the results are near-miraculous, as McGroarty demonstrates by comparing the educational effervescence at choice schools like Urban Day School and Messmer High School with the apathy and hopelessness of their public-school counterparts. All these schools are located in the same square mile of Milwaukee's poverty-stricken Near North Side, yet are worlds apart in their ethos and record of achievement.

☞ Break These Chains: The Battle For School Choice *by Daniel McGroarty (Prima Publishing).*

Technology and Home-Schooling

"A concern for independent thought, a longing to strengthen family, and a frustration with the bureaucratic limits of conventional schools" are leading some families to opt for home-schooling, according to Britton Manasco, writing in *Reason.* "Home schoolers are a statistically small but rapidly growing and increasingly influential force in America. Their numbers have jumped from 15,000 to 20,000 in the late 1970s to perhaps 600,000 today (some estimates put the number above 1 million.) The trend is likely to continue, as new products and institutions develop that make it easier for parents to educate children at home."

Home-schoolers have a powerful ally in the new information technologies that "make it possible for students to learn at their own pace and in their own way, with the teacher serving as a mentor and an intellectual coach—guiding, supporting and questioning individual learners. . . . [Information technologies] decentralize learning, no longer tying it to the physical infrastructure and administrative overhead of schools."

Critics of home-schooling argue that "individualized learning" fails to develop social skills such as cooperation, collaboration, and communication, but Manasco disagrees. "No one is arguing that technology be employed to the exclusion of human contact and personal warmth. Individualized learning hardly implies learning in isolation. Communications technologies and networks can enlarge one's set of possible associations and even allow for collaborative learning projects that cannot be replicated in the classroom. In a proper setting, they can help facilitate both individual *and* interpersonal skills."

Equally important, the new educational technologies will also empower parents. "Whether or not political efforts to encourage taxpayer-funded alternatives to government-run schools ultimately succeed, families already have the option of withdrawing from the educational system. . . . As leaving or supplementing traditional schooling becomes more attractive and less costly, the egalitarian ideology and assembly-line pedagogy that dictate one-size-fits-all education cannot remain unchanged."

☞ *"Special Ed," by Britton Manasco,* Reason, *July 1996.*

The Catholic School Edge

Studies have consistently shown that Catholic schools are educating minority students better than their public-school counterparts, despite the fact that per-pupil expenditures in Catholic schools are only one-third those of tax-funded public schools. "Catholic schools succeed where state schools fail," writes Sol Stern, "because they have virtually no central-office bureaucrats telling principals how to do their jobs. In public schools, teachers almost automatically get tenure—a lifetime job guarantee—after three years. Most Catholic schools around the country have no tenure system whatsoever. . . . And there is no rigid credentialing system: Principals can select teachers for their talent and commitment."

Given Catholic schools' success in educating minority youth, "you might expect that liberals, self-styled champions of disadvantaged children, would applaud [their] commitment and sacrifice," writes Stern. "You might even expect them to look for ways to get government money to these underfunded schools. Instead, they have done their best to make sure the wall of separation between church and state remains impenetrable. Liberal child-advocacy groups tout an endless array of 'pre-

Awards Honoring Service

In April, the Washington Times Foundation gave out its first National Service Awards to "honor those who sought through their service to cultivate moral character and responsibility, strengthening the sometimes frayed moral fabric of society." Among the dozens of recipients nationwide were:

Carl Hardrick (Hartford, Conn.) has turned gang members into productive citizens, and worked with churches and neighborhood groups in Hartford to combat crime and drug-dealing in their communities.

Project JADE (Los Angeles), under Marcos Vega, has collaborated with social-service agencies, schools, probation officers and the juvenile justice to prevent juvenile delinquency and provide youth counseling for 20 years.

Dr. Leonard Small (Savannah, Ga.) started Resurrection House Ministries, Inc. in 1987 without any taxpayer funds; since then, it has rehabilitated 600 drug addicts, many of them released convicts.

Arizona School Choice Trust (Maricopa Co., Ariz.) offers tuition scholarships, funded privately, to low-income children to attend the schools of their choice.

Rev. George S. Jenkins (Charleston, S.C.) founded Nehemiah Ministries and renovated several old buildings to provide temporary shelter for and "encourage self-sufficiency" in single women with children.

☞ *Washington Times Foundation—tel.: 202-636-4992, fax: 202-529-3171.*

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vention programs' that are supposed to inoculate inner-city children against delinquency, dropping out of school and teen pregnancy—yet they consistently ignore Catholic schools, which nearly always succeed in preventing these pathologies."

Stern attributes the lack of liberal interest in Catholic schools to the fact that liberal opinion leaders are closely allied to the teachers' unions, "which have poured hundreds of millions of dollars into the campaign coffers of liberal candidates around the country." As a result, we are ignoring an inspiring laboratory of reform. "Catholic schools are a valuable public resource not merely because they so profoundly benefit the children who enroll in them. They also challenge the public school monopoly, constantly reminding us that the neediest kids are educable and that spending extravagant sums of money isn't the answer."

☛ *"The Invisible Miracle of Catholic Schools," by Sol Stern,* City Journal, *Summer 1996.*

Cautionary Tales

Age Will Be Served

According to economist Thomas J. DiLorenzo, "establishment seniors groups" like the American Association of Retired Persons (AARP), the National Council of Senior Citizens (NCSC), and the National Council on Aging (NCOA) are little more than tax-supported advocates for Big Government. "They have a vested stake in maintaining the status quo," he writes in a new book published by the Capital Research Center, "even if it leads to the bankruptcy of programs that seniors depend on." As Baby Boomers age, two programs of critical importance to senior Americans—Social Security and Medicare—are certain to suffer financial collapse in the near future unless they are reformed now. Yet the "dependency lobby," as DiLorenzo calls the AARP, NCSC, and NCOA, steadfastly opposes needed changes.

According to DiLorenzo, the AARP is "the nation's second-largest nonprofit organization after the Catholic Church. It is perhaps the most influential political organization in America, devoting vast resources in efforts to expand welfare and entitlement programs for seniors. AARP has supported a higher minimum wage, more rent control, 'motor-voter' legislation, higher gasoline taxes, higher alcohol and tobacco taxes and higher capital gains taxes." AARP "continues to assure its members that the Social Security system is financially sound," and its lobbying for higher Medicare and Medicaid spending "has helped bring these programs to the point of bankruptcy." About a quarter of its revenues come from federal funding.

The NCSC, which in 1993 received 96 percent of its funding from federal revenues, supports "income tax increases, cuts in defense spending, 'motor-voter' legislation, a national health-care plan including long-term care, more government housing, and expanded government programs for seniors."

In contrast to these groups, DiLorenzo reports that millions of seniors are joining "a new generation of seniors groups that emphasize voluntarism, consumer choice, and fiscal responsibility. They understand that the welfare-state policies championed by the groups comprising the so-called dependency lobby are as harmful to seniors as they are to younger Americans." Although the combined budget of these organizations—The Seniors Coalition, the United Seniors Association (U.S.A.) and the 60 Plus Association—is about $20 million, compared to the $450 million budget of the "Big Three" seniors groups, the influence of pro-market seniors groups is growing. Unlike their counterparts in the "dependency lobby," notes DiLorenzo, these new seniors groups recognize that Social Security and Medicare are in trouble, and favor market-oriented reforms to avert a crisis.

☛ Frightening America's Elderly: How the Age Lobby Holds Seniors Captive *by Thomas J. DiLorenzo, Capital Research Center—tel: 202-393-2600, fax: 202-393-2626.*

The Crisis of Fatherlessness

"If present trends continue," writes David Popenoe, a professor of sociology at Rutgers University, "the percentage of American children living apart from their biological fathers will reach 50 percent early in the next century." This "massive erosion of fatherhood contributes mightily to many of the major social problems of our time. . . . Fatherless children have a risk factor of two to three times that of fathered children for a wide range of negative outcomes, including dropping out of high school, giving birth as a teenager, and becoming a juvenile delinquent."

In his new book, *Life Without Father,* Popenoe attributes the erosion of fatherhood to two causes: the "divorce revolution" and the sharp increase in nonmarital births. These two trends, in turn, reflect a dramatic change in American culture over the past 30 years—a shift away from any sense of communal responsibility towards a radical individualism.

Until quite recently, Popenoe argues, American individualism was "tempered by a strong belief in the sanctity and importance of social units such as families, neighborhoods, schools, religious organizations, local communities, and the nation as a whole."

But today's "radical, expressive, or unencumbered individualism is devoted much more to self-aggrandizement at the expense of the group. In place of group purposes serving as personal goals, self-expression, sexual freedom, and even impulsiveness have been substituted. . . . No longer having a strong institutional repository, moral authority has become increasingly centered within the psyche of each individual. At the extreme, we are becoming a nation of asocial hedonists and narcissists."

The crisis of fatherhood, then, is ultimately a cultural crisis, a sharp decline in the traditional sense of communal responsibility. It therefore follows that to rescue the endangered institution of fatherhood, we must regain our sense of community. Popenoe offers several "community-building guidelines designed to promote marriage and family life." These include the fostering of "residential stability," the revitalization of "community moral standards," the "development of smaller cities and towns," and the protection and promotion of "family-oriented neighborhoods." "Without violating the Bill of Rights," Popenoe concludes, "local communities should have more autonomy in establishing and enforcing their own values and moral standards," and "homogenous neighborhoods made up of families with children, possibly up to the size necessary to support neighborhood schools, should be protected and encouraged."

☛ Life Without Father *by David Popenoe, (The Free Press).*

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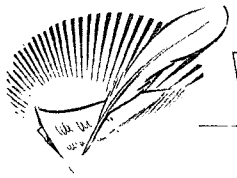

We Hold These Truths

Who Owns Our Sidewalks?

It does not take a legal scholar to recognize that transferring authority to the federal government undermines the whole constitutional structure designed by our Founders. Few realize that this shift is also destroying local self-government in towns and cities all across America.

Ours is a national government whose only powers are those delegated to it by the people. These powers are enumerated and therefore limited by the Constitution, the Tenth Amendment of which specifies that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." Jefferson called the doctrine of reserved powers "the foundation of the Constitution" and said that "to take a single step beyond the boundaries thus specially drawn . . . is to take possession of a boundless field of power, no longer susceptible of any definition." The resulting federalist system meant that most political activity in America would occur at the local and state level, rather than at the federal level.

Today, of course, the opposite is true. Over the course of the 20th century, the federal government has vastly grown in size and power. This expansion occurred largely because Congress, with the acquiescence of the Supreme Court, has long acted beyond its authority and outside the limited powers granted to it. The Tenth Amendment has become, in the eyes of the Supreme Court at least, "but a truism."

But my complaints are more practical than theoretical. Never before have local authorities exercised less control over local life. Federal judges run our jails, bus our children, manage our schools, determine the rights of municipal employees, detail the conditions under which art can be displayed on city property, and the list goes on. The weakening of the Tenth Amendment directly and unduly circumscribes my authority, as the mayor of a large American city, to perform my legitimate duties.

Several recent statutes, in my opinion, are in clear violation of the Tenth Amendment. Consider the Americans with Disabilities Act. Although it was passed with good intentions, the ADA mandates compliance with some of the most minutely detailed specifications ever issued by Congress. Under this statute, we are now negotiating with the Justice Department the precise angle of slope on sidewalk ramps we want to construct for the wheelchair-bound. If we don't even control our sidewalks anymore, what exactly is left of local authority? What Congress views as "good deeds" often undermine both the principles of federalism and the value inherent in a government that is close to the voter. By mandating another set of federal laws, the much heralded Motor Voter Act denies states and local authorities discretion in how best to register their own voters. And it all but orders the use of local tax dollars to achieve this federal objective.

By usurping local authority, the federal government undermines the Constitution and destroys self-government.

Perhaps the most pestiferous offender is the federal judiciary itself. A recent U.S. Supreme Court ruling had the effect of extending the provisions of the Fair Labor Standards Act to state and local governments. This decision raised eyebrows among even the most liberal interpreters of constitutional law. FLSA rates do little more than "protect" our cities' strongest unions by mandating generous overtime rates and work weeks. (I was recently sued by a police captain I had prosecuted for theft back when I was the D.A.; he argued that his punishment entitled him to overtime pay.) The practical effect of this ruling is that nonfederal units of government must negotiate employee compensation and overtime rates in the fashion that Congress demands—however minute the level of detail.

American tax policy is being increasingly decided by unelected federal judges, rather than by elected local representatives. By delving even deeper in state and local matters, federal courts are increasingly mandating nonfederal tax hikes by requiring things like new prison construction or huge property-tax increases to pay for federal social experiments like forced busing. The first time an unelected authority in a faraway place imposed taxation without representation on this country, our forefathers declared independence from England.

Yet, despite our best chance in a generation to right this constitutional wrong, conservatives have focused their collective energies on preventing unfunded mandates. Although unfunded mandates allow Congress to avoid tough decisions, this crusade misses the point. Let's concentrate on reducing the federal government, not making sure its excesses are well funded.

Disregard for the Tenth Amendment endangers the very notion upon which the whole American experiment is based. If the design of the Framers is to survive into the next century—if local authority is to be preserved in the face of an ever-expanding national government—the federal government's focus must be readjusted to concentrate on its national role and purpose. Weaving the limited government principles of the Tenth Amendment back into the basic fabric of American politics is a good place to start.

by Stephen Goldsmith

Stephen Goldsmith is the mayor of Indianapolis, Indiana.

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Profiles in Citizenship

The Poor Man's J.P. Morgan

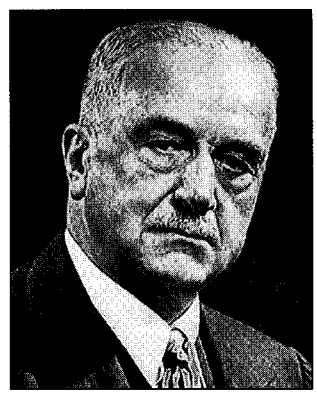
by Felice Bonadio

When Bank of America pushed ahead of New York's Chase National to become the largest and richest privately owned bank in the world in 1945, it was largely because of the remarkable vision of the bank's founder and chairman, Amadeo Peter Giannini. In building this great financial powerhouse, Giannini not only transformed modern banking, but also expanded the benefits of the free enterprise system to provide greater economic opportunity to millions of ordinary people.

Giannini was born in 1870, the oldest son of Italian immigrants. He spent his early years in San Jose, California, then a frontier farming town on the San Francisco peninsula. At the age of six, Giannini's father was killed by a transient farm worker. His mother later remarried and the family moved to the North Beach section of San Francisco, a bustling Italian community near Telegraph Hill. His stepfather opened a small produce firm on the San Francisco waterfront.

At the age of 15, Giannini quit school to work there as a commission clerk. Tall, handsome, and broad-shouldered, he soon established himself as a shrewd and ambitious young man. In 1901, having built his stepfather's firm into the largest on the waterfront, Giannini left to join the board of directors of a small North Beach Italian bank. In 1904, he opened the Bank of Italy (later renamed Bank of America) with a single teller's window in a medium-sized room of a former saloon.

Nobody in San Francisco banking circles took Giannini's bank seriously; it was thought to be just another "dago bank" of no significance. Most bankers at the time seemed to be far more interested in the financial ambitions of the affluent few than in the credit needs of the many. He set out to create something different: "Let's have a retail bank for the many instead of a wholesale bank for the few," he often said.



Banker A.P. Giannini

He saw an opportunity in the state's "mixed multitudes" of immigrants—people he considered good credit risks even though they didn't look good on paper. At night, after the bank closed, he went door to door explaining the advantages of interest-bearing savings accounts to the Italian residents.

A shrewd judge of character, he lent money for home mortgages to those who had nothing to offer in the way of collateral, as Giannini later recalled, "but their own ambition and imagination." North Beach Italians enthusiastically responded to what Giannini had taken to calling the "people's bank." At the same time, Giannini sold shares of his Bank of Italy to hundreds of small investors, laying the foundation for a large army of small stockholders who were fiercely dedicated to him and who would one day make him a powerful force in the nation's banking community.

"The poor man's bank is the bank that has had imagination and courage enough to break with tradition and set out on new paths of enterprise," he said. "It is just the type of institution that will adjust itself to a changing world and will devise services the public can and will use."

During the 1920s, Giannini succeeded in creating the first state-wide branch banking system anywhere in the country. He opened Bank of Italy branches in scores of towns and cities throughout the state, attracting more and more customers from among the state's many ethnic minorities—Armenians, Chinese, Mexicans, Greek, Portuguese, Yugoslavians, and Russians. (Ever on the lookout for potential customers ignored by most other banks, Giannini opened a bank in 1921 for women run exclusively by women.) The result of his branch expansion program was breathtaking. By the end of the 1920s, Bank of Italy stretched 1,000 miles from Oregon to the Mexican border, with 276 branches in 199 California towns and cities and nearly $750 million in assets. For the first time, small towns and a large number of working families had access to the resources of a big-city bank—more loan capital, lower interest rates, and better services.

Giannini expanded Bank of America into the field of installment credit, offering the first loans for such purchases as household appliances and new automobiles, and making the bank the nation's leader in consumer loans. In the late 1940s, Bank of America had 500 branches in California alone, and more than 30 percent of all the state's savings deposits. Giannini's bank was a virtual "department store of finance" whose influence on the economic life of California was staggering. He ended the decade by establishing branch offices in major cities in the Pacific basin and the Far East—Manila, Bangkok. Shanghai, Tokyo, Yokohama—providing markets and international opportunities for California's rapidly expanding economy.

Giannini never chose to enrich himself. "I never had the money itch," he liked to say. "I enjoy work. I've always said I would never be a millionaire." At his death in June 1949, Giannini left a total estate valued at $489,254. Adjusted for inflation, this was less money than he had been worth before he got into banking.

Photo by Archive Photos

Felice Bonadio, professor emeritus at the University of California at Santa Barbara, is the author of A. P. Giannini: Banker of America *(University of California Press, 1994).*

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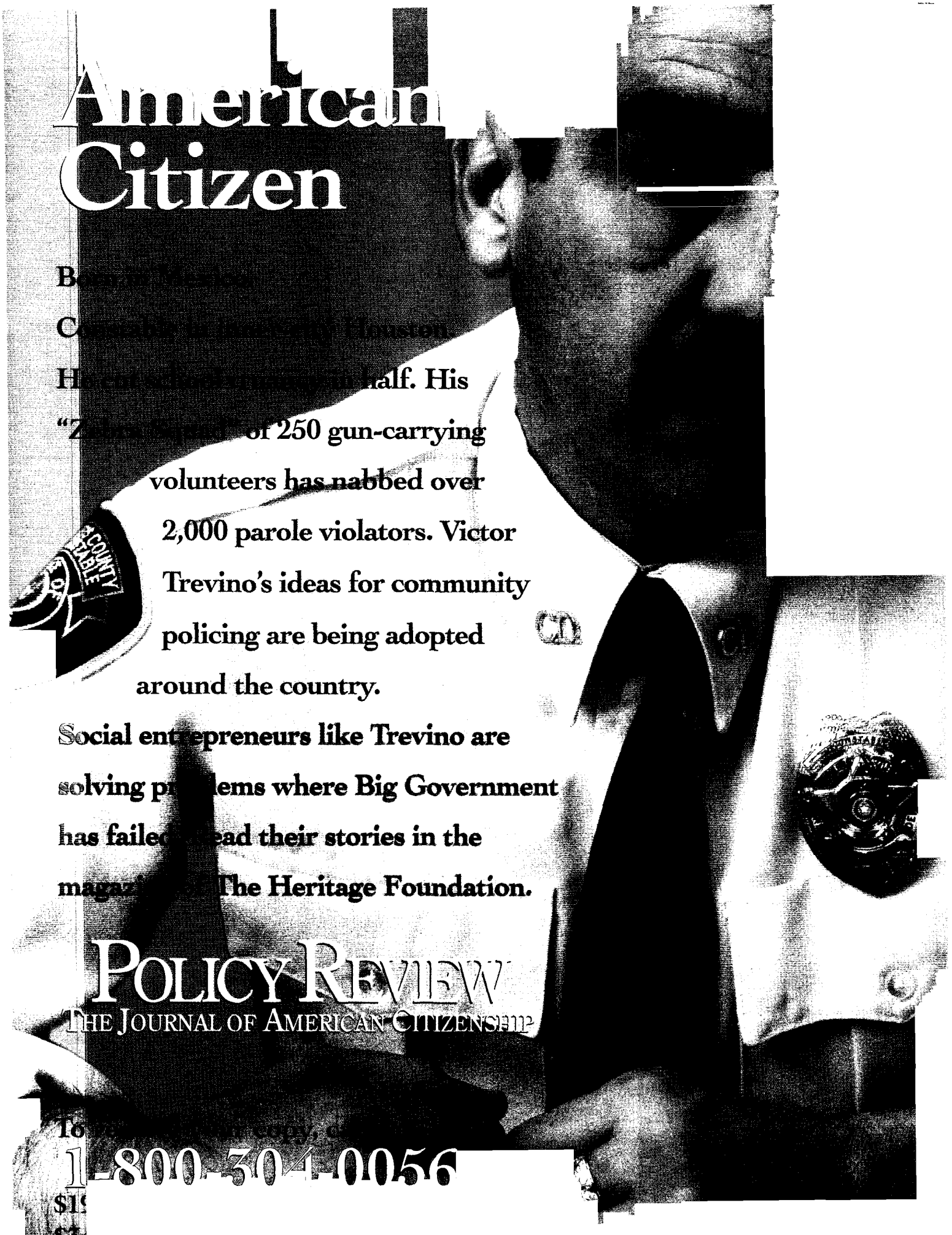

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